

4.3

PORTION 94 OF FARM 587, HEMEL-EN-AARDE VALLEY, OVERSTRAND MUNICIPAL AREA: PROPOSED DEPARTURES AND AMENDMENT OF CONDITIONS OF APPROVAL: MESSRS WRAP ON BEHALF OF HAYGROVE HEAVEN (PTY) LTD

94/587 RCAL (3274/2019)

H Olivier

22 September 2021

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

The application on Portion 94 of Farm 587, Hemel-en-Aarde Valley is in terms of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for the amendment of the conditions in a previous approval for intensive horticulture to expand the existing tunnels and also some departures, including the following:

- Application is made in terms of Section 16(2)(h) of the By-Law to amend a condition of approval to allow for the expansion of the horticulture tunnels from 5,8727 ha to 17,5464 ha.
- Application is also made in terms of Section 16(2)(b) of the By-Law for a departure to relax the following:
 - Eastern lateral building line from 30m to 3m to accommodate the proposed intensive horticulture tunnels.
 - Southern lateral building line from 30m to 5m to accommodate the proposed intensive horticulture tunnels.
 - Western lateral building line from 30m to 2m to accommodate the proposed intensive horticulture tunnels.
 - Northern lateral building line from 30m to 5m to accommodate the proposed intensive horticulture tunnels.
 - Departure from the maximum 5000m² allowable floor space for all buildings on the land unit to allow floor space of 17,8444 ha to accommodate intensive horticulture tunnels.

A Locality Plan of the property concerned is attached as Annexure A. The proposed Site Development Plan is attached as Annexure B, while the Motivation Report from the applicant in support of the proposal is attached as Annexure C.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The farm measures 71,5045 ha in extent and is zoned Agriculture Zone I.

The farm is a productive farm that is already being farmed with intensive horticulture berry farming (Haygrove Heaven). The Municipality approved a consent use in early 2016 for intensive horticulture on the farm and for intensive horticulture tunnels of 5,8727 ha in extent.

This application is then to amend such previous application to extend the intensive horticulture tunnels and existing buildings to approximately 17,8444 ha in extent.

4. SUMMARY OF APPLICANT'S MOTIVATION

- ❖ The farm is being utilized growing cherries and fruits in an organic manner.
- ❖ Intensive horticulture will increase yield and increase quality.
- ❖ The previous approval granted for intensive horticulture tunnels stipulated "*that application will have to be made for any possible future tunnels*", hence this application. The application is to amend the condition by replacing the existing Site Development Plan (SDP) with a new "Plan 3" showing the extension from 5,8727 ha to 17,5464 ha.
- ❖ Application is also made to relax various 30m building lines applicable to farm boundaries, to accommodate some extensions, and also construct buildings with a footprint more than 5000m².
- ❖ Intensive horticulture is more profitable/m² land, has higher crop output, utilises less resources and allows for a wider variety of crops to be planted.
- ❖ There are existing water rights on the property, and such capacity will not be exceeded.
- ❖ There is sufficient sewerage capacity on the property.
- ❖ Electricity - Electricity is provided by Eskom.
- ❖ Access - Existing road accesses will be used.
- ❖ Compatible with surrounding land uses as it is predominantly agricultural. Portion 11 of Farm 587 also has intensive horticulture.
- ❖ The height of the structures will ensure it is not visually impeding, and the camouflage net covering over the existing and proposed tunnels blend in with the rural landscape.
- ❖ Intensive horticulture is labour intensive and will create employment opportunities.
- ❖ There is a need to increase yield on agricultural land due to competition for land by non-agricultural uses.
- ❖ No heritage legislation is triggered.
- ❖ No listed activities in terms of National Environmental Legislation are triggered.
- ❖ It is in line with SPLUMA requirements.
- ❖ In line with PSDF by prioritizing rural development and investment in agriculture, expansion and diversifying agriculture, etc.
- ❖ In line with the Overstrand Municipality's SDF in that it will develop and maintain a strong local economic base in the rural area, protect agricultural resource, etc.

❖ **Planning principles:**

Spatial Justice

Will provide opportunity to the rural residents combatting development imbalances of the past.

Spatial Sustainability

The application will ensure unemployed people can have a share of the income out of this project.

Efficiency

More efficient use of agricultural land providing a greater output.

Spatial Resilience

It is in line with spatial planning policies and will help absorb environmental and economic shocks.

Good Administration

The Municipality follow a good public participation process.

5. ADMINISTRATIVE COMPLIANCE

| Methods of advertising | | Date published | Closing date for comments |
|---|----------------|---------------------------------|----------------------------------|
| Press | N/A | N/A | N/A |
| Notices | Yes | 20 January 2020 25 June 2020 | 21 February 2020 31 July 2020 |
| Ward councillor | Yes | 20 January 2020 25 June 2020 | 21 February 2020 31 July 2020 |
| Total comments | SIX (6) | | |
| Total letters of support | ONE (1) | | |
| Was public participation undertaken in accordance with Section 46 - 50 of the By-Law on Municipal Land Use Planning? | | | Yes |
| Was the application processed correctly (if no, elaborate below): | | | Yes |
| Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below) | | | Yes |

6. SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

| Name | Date received | Summary of comments. |
|---|---------------|----------------------|
| Municipal Environmental Department | 12/10/2020 | No objection. |
| Building Control | 10/03/2020 | No objection. |
| Western Cape Government: EA&DP(Environmental) | 25/08/2021 | See Annexure F. |
| Western Cape Government: EADP (Planning) | 06/03/2020 | See Annexure G. |
| Western Cape Government: Agriculture | 01/06/2020 | See Annexure H. |
| Eskom | 17/03/2020 | See Annexure I. |
| Heritage Western Cape | 07/02/2020 | See Annexure J. |
| Telkom | 21/01/2020 | See Annexure K. |
| BGCMA | 31/10/2020 | See Annexure L. |
| Engineering Services | 29/07/2020 | See Annexure M. |
| Fire Department | 11/03/2020 | See Annexure O. |

| | | |
|-------------------------|------------|----------------|
| Department of Transport | 06/10/2021 | See Annexure R |
|-------------------------|------------|----------------|

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION.

Notices were sent out to surrounding property owners in January 2020. It was however established that due to a lack of information on the municipal record system some surrounding property owners did not have an opportunity to provide comments. Notices were sent out to such property owners in June 2020 to provide them with an opportunity to comment on the application.

The objections, applicant's response and Municipal Town Planner's response can be summarized as follows:

OBJECTIONS PERTAINING TO AGRICULTURAL ACTIVITIES:

OBJECTION 1(a)

With that vast increase in building coverage it is clear that this "farm" is actually the centre of operations for the surrounding farms that Haygrove also own. It is concerning that it will be more a factory than a farm.

Applicant's response

A distinction must be made between the impact of the approval and implementation of this proposal and the land use rights which are sought in the planning application.

Impact

The application area for which land use rights for intensive horticulture are sought is currently cultivated and covered with shade netting. The reason for this is that the changing climate coupled with wetter springs and summer negatively impact on the yield and has forced the applicant to cover the tunnels with shade cloth. The property owner envisages converting the existing shade netting with tunnels to protect the crop from rain. The approval of this proposal therefore does not constitute an actual expansion of activities currently on the subject property.

Planning application

The approved intensive horticulture tunnels were limited to the site development plan which was approved at the time. The proposed expansion of the approved footprint is to allow the proposed construction of horticulture tunnels in the existing fields, currently only covered with shade cloth.

From a practical perspective, the approval and implementation of this proposal will not lead to any additional visual expansion or any additional impact apart from what can already be seen on the property which constitutes $\pm 25\%$ coverage of the subject farm. Considering this, what is applied for might be perceived as a significant increase but what is on the ground are already cultivated areas covered with a shade net, which will not result in any additional development impact.

The subject farm is not intended to be the centre of operations for surrounding farms as the intensive horticulture activities on the subject farm are of a smaller scale compared to other farms which are owned or rented by Haygrove Heaven (Pty) Ltd (Haygrove).

The Overstrand Municipal Zoning Scheme defines a factory/industry as follow:

“industry means a property, which in the municipality’s opinion, is used as a factory or workshop and in which an article or part of such article is made, manufactured, produced, built, assembled, compiled, printed, ornamented, processed, treated, adapted, repaired, renovated, rebuilt, altered, painted (including spray painting), polished, finished, cleaned, dyed, washed, broken up, disassembled, sorted, packed, chilled, frozen or stores in cold storage; and includes self-storage, offices, caretaker’s quarters, warehouses and breweries, distilleries and mechanical workshops or other uses which are subservient and ancillary to the use of the property as a factory but does not include noxious trade or risk activities.”

The land uses of the intensive horticulture cannot be classified as a factory/industry which is evident when the definition above is read. This therefore nullifies the concern by the objector that the operations of the proposal are intended to be a factory.

Town Planner’s comment

The comments are duly noted that the fields are already covered with shade netting which will now be replaced with horticulture tunnels. The additional visual impact would therefore be limited. The applicant’s comments on the comments that this farm is the centre of operation for surrounding berry farms is noted, and duly addressed by the applicant.

The comments that the activities is of an industrial nature is not supported, as can clearly be seen considering the definition of “industry” in the Overstrand Municipality Zoning Scheme.

OBJECTION 1(b)

Sprayers run from early until 10pm, with double the expansion, this will be double the odour emissions and impact the fresh air. This is concerning as the sprays used are “mostly” organic, which has potential long term environmental and personal health impact on us.

Applicant’s response

Spraying occurs occasionally on the subject premises and does not occur all night as insinuated by the objector. The construction of more tunnels will result that less spraying will be required as the proposed tunnels contribute to the protection against certain fungal diseases. Haygrove also operates according to a soft integrated pest management programme and adheres to all regulatory guidelines as is required by law.

Town Planner’s comment

The comments are noted. As indicated by the applicant, spraying only occurs occasionally. Also, the construction of the horticulture tunnels will require less spraying against fungal diseases, and all spraying is done in line with regulatory guidelines.

The existing situation would thus be improved with this application.

OBJECTIONS PERTAINING TO TRAFFIC AND MOVEMENT:**OBJECTION 2(a)**

Since moving here, we have already experienced increased traffic, namely, heavy trucks, taxis, delivery vehicles and buses who most times speed downhill right next to our house, starting as early as 5am. Even when not speeding, most hit the speed bump with force, waking us up and hooting once they reach the Haygrove's gate.

Applicant's response

Considering that the scale of land use activities will largely remain the same as existing shade netting will be converted with tunnels. A significant increase in traffic movement as projected by the objector, is unlikely.

Town Planner's comment

The applicant's comments are duly noted, and the changing with shade netting to horticulture tunnels will not lead to a significant increase in additional traffic.

It is to be noted that the Municipal Engineering Services Department also indicated that the application will not lead to a significant increase in additional trips from the existing situation per hour.

The Department of Transport were also requested to comment on the application, and have no objection against the application.

Existing concerns of surrounding property owners regarding speeding and hooting trucks should be communicated to the Haygrove Heaven management to give attention to such matters. It is noted that speed bumps have already been constructed as traffic calming measures.

OBJECTION 2(b)

The said vehicles above all omit fumes coming down the road right next to our house which is the servitude to Haygrove.

Applicant's response

All vehicles generally emit some fumes, and it would be unreasonable to expect the vehicles which enter and egress the subject property to not generate any fumes. No additional emission of fumes is projected to occur from vehicles considering that the approval and implementation of this proposal will only entail the conversion of existing shade netting to horticulture tunnels.

Town Planner's comment

The applicant's comments are supported.

OBJECTION 2(c)

The significant and dangerous impacts caused to residents of the Hemel-en-Aarde valley by incessant traffic, both on the primary access road through the valley and on the minor road via which the subject property is presently accessed. Our instructions are that busses, taxis, light delivery vehicles and heavy reticulated trucks pose a significant threat to other users, but the impacts of existing traffic are not explored nor analysed in the motivation (to say nothing of the significant increase in traffic that could be anticipated in the event that the application is granted by the Municipality). This is another significant omission in the application as currently framed. To the extent that the applicant pursues the application, we submit that the Municipality should oblige the applicant to produce an appropriate detailed traffic impact assessment by an appropriate qualified expert before the application can proceed to the decision making.

Applicant's response

Considering that the scale of land use activities will largely remain the same as existing shade netting will be converted with tunnels. A significant increase in traffic movement as projected by the objector, is unlikely.

Town Planner's comment

The objector's comment is noted. The application was circulated to the Municipal Engineering Department, and such department was also requested to indicate if a TIA was required for this application. They indicated no TIA was required.

The application was also forwarded to the Department of Transport, and they also indicated they had no objection to the application and requested no additional traffic studies.

Considering the above, the application is supported by the specialists Departments/Branches with regards to traffic impact.

OBJECTIONS PERTAINING TO NOISE:

OBJECTION 3(a)

Labourers often shout at each other across the tunnels, on Sundays (pre-covid, but it will start up again at Level 1), the Sunday service is exceptionally loud, carries on for a few hours at full shouting volume, not to mention the personal music from the outages that gets played at high volume at times. We hear it all as it's impossible to avoid. More buildings on the property will just increase these factors with more people around permanently.

Applicant's response

The objector acknowledges that the noise levels generated by the labourers have decreased post Covid 19 and this adaptation in behaviour is therefore projected to last even after Covid 19.

The alleged pre Covid 19 noise emissions are as a result of the existing cottages and not directly blamed on the existing tunnels on the premises. There is therefore no substantive evidence to prove that the expansion of the tunnels as proposed in the application will have an adverse noise cumulative impact.

Town Planner's comment

The comments are noted. The objector should submit his complaint to the farm manager to address. It is however not clear how an increase in horticulture tunnels will lead to an increase in noise created by labourers, as it would rather project less noise of labourers working inside or between such structures.

OBJECTION 3(b)

There will be considerably more noise with two and a half times more vehicles, machinery, spraying (both ground and by helicopter) and people. We already hear machines and sprayers until 10pm.

The small farm road and servitude currently utilised by Haygrove are already very busy with large trucks, sewage trucks, buses, taxis and cars. Many more vehicles due to nearly tripling the size of the tunnels will create more dust (pollution) and noise and degradation of the roads.

Applicant's response

As stated earlier, this proposal only entails the conversion of existing shade netting to intensive horticulture tunnels, which will not constitute a two-fold increase as cited by the objector, which will avert the likelihood of the traffic and noise related nuisance.

Notwithstanding the above, the traffic and noise impact on the subject property will be low for the following reasons:

- The vehicles will not enter and egress the premises during the same hours but will do so during different time intervals, which will spread out the movement impact, which avoids high intensity vehicle movement impacts at specific time intervals.
- The farm machinery and spraying will continue to operate on different parts of the farm on a piecemeal basis, which will avoid high intensity agricultural activities and the noise projected by the objector.

Considering the above, the approval of this proposal is not projected to increase the discomfort levels of the objector.

Town Planner's comment

The construction of the tunnels would not lead to an increase in berry fields, as there are already berry fields. The perceived increase in activity is therefore not supported, as the horticulture tunnels would rather dampen noise levels due to its construction, and also result in less movement of planes or vehicles for spraying pesticides. This will mitigate the slight increase in additional vehicles visiting the site due to increased yield.

The traffic impact was also discussed in point 2 (a).

OBJECTIONS PERTAINING TO THE COCOMPATIBILITY OF THIS PROPOSAL WITH SURROUNDING LAND USES:

OBJECTION 4(a)

The Hemel-en-Aarde Valley is an international tourist attraction with its outstanding beauty, award winning vineyards and restaurants, major cycling

events and recreational activities, all within reach from the world recognised “Whale Capital” of Hermanus.

Applicant’s response

The proposed conversion of the existing shade netting sought on the subject property will not diminish/interfere with the ability of farm owners in the Hemel-en-Aarde Valley to contribute towards the tourism value of the region.

Town Planner’s comment

The comments are noted. The Hemel-en-Aarde Valley is firstly agricultural land, which must help secure food security. The tourist attractions and agricultural activities must therefore co-exist in the Hemel-en-Aarde Valley.

OBJECTION 4(b)

Haygrove Heaven is an eyesore on the landscape and the proposal WILL have an impact on the character and heritage of the area and potentially the value of our homes.

In support of our wholesale rebuttal (above) of the applicant’s planner’s purported motivation of the application against the applicable legal requirements in the By-law, we direct the Municipality to the planner’s unsubstantiated and misleading statement in paragraph 7 of the motivation. 24 The applicant’s planner says the following there:

“Considering that the neighbouring Portion 11 of Farm Hemel-en-Aarde 587 Caledon 587 (sic) also has intensive horticulture tunnels, the approval and implementation of this proposal is in harmony with neighbouring land uses. The neighbouring farmers have become accustomed to the tunnels (sic) on the subject property and neighbouring farm. This proposed expansion will therefore not come as a surprise or upset the rural visual landscape which farmers have become accustomed to.”

It is a patent falsehood for the applicant’s planner to state that “neighbouring farmers” have become accustomed to the existing tunnels. The existing tunnels are an eyesore for the residents of the area, and for domestic and overseas tourists. The existing tunnels already have a significant visual impact which will be massively and unreasonably increased if further horticulture tunnels are permitted on the subject property.

The applicant’s planner assertions that the proposed expansion will thus not be foreign to neighbouring property owners nor upset the rural visual landscape only have to be stated to be rejected.

In order for the Municipality to form the correct picture of the facts of the application (and for the other reasons that motivate in favour of a site visit, as set out below in paragraphs 98 to 101 of these objections) the Municipality’s official/s responsible for producing the written assessment of the application in terms of Section 57 of the By-law should visit the subject property before finalising the obliged assessment.

Applicant’s response

The areas where the shade netting is proposed to be converted into intensive horticulture tunnels are surrounded by rows of pine trees which are planted in block format.

This will consequently reduce the visual impact of the conversion of the shade netting into intensive horticulture tunnels on the character and heritage of the Hemel-en-Aarde Valley and subsequently prevent the likelihood of surrounding property values from being impacted.

The municipal planner will also conduct site visits on the subject premises to assess the visual impact of existing horticulture tunnels in conjunction with the proposed tunnels.

Town Planner's comment

Both comments are noted. The applicant's statement is not wrong as there are horticulture tunnels on Portion 11 of Farm 587. The fact is that the dominant use in the Hemel-en-Aarde Valley is agricultural, and therefore agricultural activities should have been expected by surrounding property owners. The applicant indicated that there are rows of trees on the farm which will help visually block the view of the tunnels, which could clearly be seen during a site inspection.

The comment by the objector about the visual rural landscape is noted, but residents in the area and those operating tourist facilities bought their properties in a dominant agricultural area, and farming activities is part and parcel of this area.

Other mitigating factors are that only approximately 11,6738 ha of additional horticulture tunnels will be created on this property, and they will also be covered with black or grey shade cloth, therefore having less of a visual impact on surrounding properties. It can also be clearly seen on-site that the impact of the berry field with horticulture tunnels and netting does not have a much greater visual impact than berry fields covered by netting. The horticulture tunnels merely are placed under the existing netting and is therefore not imposing structures.

OBJECTION 4(c)

Haygrove is NOT in harmony with neighbouring land use. We are on the Southern Haygrove border with all our houses facing the Haygrove property. We developed our country lifestyle houses years before Haygrove.

The first motivating factor described by the applicant's planner regarding the desirability of the application is the alleged compatibility of the application with surrounding land uses. The statement is made by WRAP that most of the farms in the Hemel-en-Aarde are agriculturally productive with some intensive horticulture.

We submit that this is a fallacious statement for at least two reasons:

- ***Firstly, it is not factually correct that most surrounding properties are used predominantly for agricultural purposes. Many of the surrounding properties (including our clients' properties) are principally used for residential purposes albeit in a rural setting. Our clients' immovable properties form part of a residential estate that was constituted under a body corporate many years before Haygrove commenced intensive agricultural production inter alia using horticulture tunnels.***

- ***The second reason is that the suggestion that proposed horticulture tunnels (which will cover a total of over 17 ha of the subject property, if approved) can be said to be “in harmony” with the surrounding properties is a misleading overstatement. Whilst it may be correct to assert that the neighbouring Portion 11 of Farm Hemel-en-Aarde 587 also has intensive horticulture units, that property is also owned and operated by Haygrove. The applicant’s self-interest is manifested. Beyond the latter property, various other landowners who reside on immovable properties that border the subject property would in fact experience significant disharmony (in the form of an actionable impairment to their reasonable use and enjoyment of their properties) if they were to be burdened by the significant visual impacts that will be caused by the erection of more than 175000m² of additional and very tall plastic-clad horticulture tunnels.***

Applicant’s response

The following farms immediately abuts the subject property, are used for agricultural or intensive horticulture purposes:

- Portion 2 of Farm Hemel-en-Aarde 587 Caledon;
- Portion 45 of Farm Hemel-en-Aarde 587 Caledon;
- Portion 88 of Farm Hemel-en-Aarde 581 Caledon;
- Portion 11 of Farm Hemel-en-Aarde 587 Caledon.

The submission in the motivation report that the majority of surrounding land uses are for agricultural purposes is correct. Only the individuals whom the objector is representing do not engage in agricultural activities.

It has been highlighted earlier that the pine trees, which surrounds the proposed location of the intensive horticulture tunnels, would reduce the visual impact concerns which are cited by the objector.

Town Planner’s comment

The applicant indicates that at least four surrounding properties are being utilized for agricultural purposes, whilst the applicant is of the view that there are many properties in the area utilized for residential purposes. The applicant is also of the view that an area covered with a total 175000m² of horticulture tunnels will impact the reasonable use and enjoyment of the surrounding property owners.

The area is first and foremost an agricultural area, and therefore other uses such as residential uses and tourist facilities should not impact on the productivity of such agricultural area. It is therefore the opinion that surrounding neighbours were expecting a specific outlook regarding the use and enjoyment of their properties, and that the increase in intensity of the agricultural activities does not fit in with their outlook.

It is to be noted that Western Cape Government : EA&DP (Planning and Environmental Departments), Heritage Western Cape and the Overstrand Environmental Management Services Department supports the application. The application was also circulated to Cape Nature, who provided no comment on the application.

The fact that no negative comments were received is in the writer’s opinion due to the fact that this is already cultivated land and not on environmental sensitive land. Also,

the fact that horticulture tunnels are a feature we see more and more on the rural (farm areas) landscape, and it is where such structures are used, makes the visual impact thereof acceptable in such rural landscape.

SAFETY AND SECURITY RELATED OBJECTIONS:

OBJECTION 5(a)

The safety and security on farms in South Africa are becoming more and more alarming at a rapid rate.

We are already very vulnerable as our home borders Haygrove on both along the Servitude Road and Haygrove Southern Border, leaving us exposed to potential Farm attack or robbery.

The nature of Haygrove operation exposes us to many people that are not employed by Haygrove Operation. This expansion will only increase the risk of further potential danger to us.

Applicant's response

The concern relating to alarming rates of safety and security on farms is a valid one. The conversion of the existing shade netting to intensive horticulture tunnels will result in retaining the number of employees on the subject farm who are surveillance in the

Town Planner's comment

The objection is a common problem in South Africa. However, it is not clear how the construction of the new horticulture tunnels will increase safety concerns, as it should not lead to a significant increase in people not employed by Haygrove Heaven visiting the site. Also, it is considered unreasonable that a farmer cannot increase his farming activities in a rural area, due to concerns of an influx of more people, which could impact safety and security.

OBJECTIONS RELATING TO MIGRATORY PATTERNS:

OBJECTION 6(a)

Haygrove employ migrant/casual workers who come down from other parts of the country in search for work and do not always return after the season ending.

Applicant's response

Haygrove is primarily concerned with employing available labour in Hermanus and cannot be held accountable for the broad migratory patterns of employees outside looking for work. The objector has also not illustrated why the current migratory patterns of employees are a problem.

Town Planner's comment

The applicant duly addressed this point.

OBJECTIONS RELATING TO THE IMPACT AND IMPLICATION OF THE APPROVAL AND IMPLEMENTATION OF THIS PROPOSAL:

OBJECTION 7(a)

Although the management at Haygrove have been accommodating when we have raised any of the above issues when they have become out of hand, please note that it is a major concern that this expansion will potentially become a difficult one to manage from a neighbour's point of view due to the sheer scale of the business.

Applicant's response

The objector has correctly pointed out that the management of Haygrove has taken reasonable measures to be accommodating to neighbours regarding the intensive horticulture activities, which are occurring on the subject property. This accommodating nature of the management will continue with the approval and implementation of this proposal, which will ensure that activities are managed in a way which does not infringe on the ability of the objector to occupy the respective property in comfort.

Town Planner's comment

The comments are noted. Usually when businesses expand more people are appointed to oversee such business to properly manage the business. It appears that Haygrove has functioned well up to this point, and it is therefore foreseen that they will proceed with the expansions in the same manner.

OBJECTION 7(b)

The report states that "The tunnels will not bring about additional noise." An additional 11 ha of tunnels (from 5 ha) will nearly triple the requirement for spraying, which will significantly increase the unpleasant noise levels currently experienced by neighbouring properties both during the day and late into the night. There will be increased traffic in the form of taxis, large trucks and buses down the side of our property which will certainly add to the noise levels.

The soft fruits do not smell bad or emit any offensive fumes. This may be the case, however, the regular crop spraying, either by ground (tractors with very loud spray mechanisms) or helicopter does emit very offensive fumes. More tunnels mean more spray which means more fumes.

Applicant's response

As discussed earlier, this proposal only entails the conversion of existing shade netting into intensive horticulture tunnels, which will not result in the tripling of the spraying requirements as highlighted by the objector. The construction of more tunnels will result that less spraying is required as the proposed tunnels contribute to the protection against certain fungal diseases. Haygrove also operates according to a soft integrated pest management programme and adheres to all regulatory guidelines as is required by law.

Town Planner's comment

The applicant sufficiently addressed the concerns. Although the additional yield could attract more delivery vehicles, less spraying would be required with less trips on-site or during spraying by helicopter, or even for the delivery of pesticides.

OBJECTION 7(c)

2.1 mentions the neighbouring farm, Portion 11 of Farm 587, also having intensive agriculture tunnels, hence implying “harmony with neighbouring land uses.” This statement is disingenuous as Portion 94 has the same owners.

Applicant's response

The fact that the subject property and the neighbouring one are in the ownership of the same company with intensive horticulture does not nullify the validity of the statement that the submitted proposal is in harmony with surrounding land uses as asserted by the objector.

Town Planner's comment

The comments are noted, and the applicant's comment are supported.

OBJECTION 7(d)

The neighbouring farmers have become accustomed to the tunnels. This will never be the case and it is unbelievable that the statement has even been considered.

Applicant's response

The statement implies that the visual and activity impact of the existing intensive horticulture tunnels is a phenomenon which neighbours have become accustomed to and not foreign.

Town Planner's comment

This statement has previously been addressed in this report.

OBJECTION 7(e)

This proposed expansion will therefore not upset the visual landscape. Any person who visits the valley is astonished and disappointed to see the blot on the landscape of the otherwise beautiful Hemel-en-Aarde Valley made by the ugly plastic black shade cloth tunnels. This disappointment is shared by the neighbouring farmers.

The further suggestion by the applicant that the “visual colour diversity which the approval and implementation of this proposal will bring about in the Hemel-en-Aarde is desirable and is one of the draw cards which attract tourist to the area”, is also a whole fallacy. It only has to be stated to be rejected. The suggestion that visual diversity in the valley will be enhanced by the erection of plastic-covered tunnels and in turn, that this “diversity” will draw tourists to the area simply does not stand scrutiny as an objectively motivated criterion it is, quite simply; preposterous.

Applicant's response

The assertion that the existing tunnels are a blot on the landscape of the Hemel-en-Aarde is an exaggeration for the following reasons:

- What sets the Hemel-en-Aarde apart from other agricultural regions such as those who only farm with wheat, which creates a rural fabric dominated by one yellow colour, is the diversity of agricultural activities which create a mixed colour rural landscape texture. The existing intensive horticulture forms part of this peculiar valued rural colour texture.
- The approval of the expansion sought will therefore enhance this rural texture, which will contribute towards the enhancement of the valued rural visual landscape, which will benefit the objector.

The notion that the existing and proposed expansion of the horticulture tunnels constitute a disappointing blot on the visual landscape of the area, is unfounded.

Town Planner's comment

The comments are noted. As previously indicated the application was circulated to Cape Nature (provided no comment), Western Cape Government: EA&DP (Environmental), Heritage Western Cape and the Municipal Environmental Management Services Department, no visual impact was requested.

The question is, what does a person consider a view to be in a rural setting? Is the creation for example of a residential estate or a resort positive for a rural setting? If the farmer gets a higher yield from horticulture tunnels, he will need less fields covered with netting, which would ultimately have less of a visual impact on the larger area.

Visual impact in this case is in the eye of the beholder and a person's point of view of what an acceptable structure visually will be in a rural setting. Intensive horticulture tunnels are however part of the rural fabric.

OBJECTION 7(f)

To the extent that the applicant elects to pursue the application, we submit that the Municipality must oblige the applicant first to produce an appropriately detailed visual impact assessment by an appropriately qualified visual impact specialist, before the properly supplemented application can proceed to the decision-making stage. The visual impact assessment should also be circulated to all parties with an interest in the matter (including the objectors we represent) so that they are afforded a proper opportunity to review that assessment and to provide their comments in that regard.

Applicant's response

The submitted application was circulated by the Overstrand Municipality to a variety of state departments and there was no request for a visual impact assessment, which nullifies the request by the objector.

Town Planner's comment

See comments under 7(e).

OBJECTION 7(g)

Paragraph 8 on the rural environment states that “this proposal is in harmony with the rural environment which is valued by the residents.” The rural environment made up of orchards and vineyards and animal farms of the Hemel-en-Aarde Valley is valued by the residents, however as residents we do NOT value the already ugly 5 ha of tunnels on the applicant’s land and are extremely concerned about the visual impact of another 11 ha of tunnels. From the resident’s point of view, the applicant’s farm does not add any value to the valley.

As regards the provisions in the WCLPGRA relating to the development’s reinforcement of the farm precinct and the reflection of similar scale, the objectors submit that the proposal is massively over-scaled. The fact that the intensive horticulture tunnels are “lower than the 12m height restriction” in no way derogates from the significant scale of the proposed erection of the tunnels in question. The fact that there may be other intensive agricultural land uses in the Hemel-en-Aarde rural area (none of which are explained in any detail in the application) does not represent harmonious scale in the area, to the contrary, the proposal is to develop the subject-property by the installation of some 17,5 ha under intensive horticulture tunnels.

Applicant’s response

What the objector negates is that there are other farms in the Hemel-en-Aarde such as Portion 1 of Farm Karweyders Kraal 584 Caledon and Portion 7 of Karweyders Kraal 584 Caledon which also have intensive horticulture tunnels. These farms form part of the rural environment of farms in the Hemel-en-Aarde. The objector might not see any value in the existing and proposed expansion of the intensive horticulture activities, but the people who are employed and were rescued from a state of idling around as well as other tourists who find the visual contribution of the tunnels towards the rural landscape visually mesmerizing, see value in it. The refusal of this proposal can therefore not be based on the objection assertion which can be contested.

Town Planner’s comment

This objection again clearly shows the difference in opinion of what land uses/activities are acceptable in rural areas. For the objectors’ orchards, vineyards and animal farms are considered acceptable, but for farmland to be productively farmed more intensive land uses such as chicken batteries, horticulture tunnels and dairies with different activities and structures is also important too.

Also note that EA&DP: Directorate Development Management, who prepared the WCLPGRA, also commented on the application, and had no objection against the application.

Considering the above, the opinion of the compatibility of the horticulture tunnels in this rural area, is in the eye of the beholder.

OBJECTION 7(h)

Paragraph 12.2: The fact that the “tunnels will not exceed the permissible 12m height restriction” most certainly are “visually not imposing” due to their coverage and black colour and cannot in any way promote any “visual diversity”. That the application can even mention that the tunnels are “desirable” and are “one of the draw cards which attract tourists to the area” is hypothetical in

extreme and absolute rubbish. Tourists are shocked and always comment on how ugly the tunnels are and how they detract from an otherwise beautiful area.

Applicant's response

The tunnels promote visual diversity as some of the tunnels are grey and black which add colours in the Hemel-en-Aarde in addition to the diversity of agricultural land uses which add peculiar colours on the rural landscape. The statement by the objector that tourists are shocked by how the tunnels look is one sided as some tourists appreciate the visual contribution of the tunnels in the Hemel-en-Aarde.

Town Planner's comment

As indicated in 7(g) above, different people have different viewpoints regarding horticulture tunnels. To generalize and to say tourists comment that the tunnels are ugly, by objectors, and horticulture tunnels are a draw card by the applicant, are both speculative comments.

OBJECTION 7(i)

The subject site will NOT be “visually enhanced” by adding an extra 11 ha of tunnels covered by plastic and shade cloth.

Applicant's response

It has been mentioned before that the tunnels add a colour diversity in the Hemel-en-Aarde rural area which will contribute towards the enhancement of the rural visual fabric of the area.

Town Planner's comment

The comments are noted. See Point 7(h) above.

OBJECTION 7(j)

It is erroneous to state that the tunnels will “not be visually imposing”. The tunnels will only be “in synchrony with scale of similar structures” on ONE neighbouring farm (Portion 11) which is owned and/or operated by the same company, therefore cannot be used as reason to motivate the expansion.

Applicant's response

The motivation report has motivated that the consistency of the proposed expansion of the horticulture tunnels does not hinge on the consistency thereof with surrounding land uses but based on the consistency with relevant considerations prescribed by the By-Law.

Town Planner's comment

The comments are noted, but visual impact has been discussed in the above headings.

OBJECTION 7(k)

The applicant has also not placed a full and proper picture before the Municipality of the fundamental incompatibility (and therefore, the inherent lack of desirability) of the development proposal when considered against existing surrounding land uses. In support of this assertion, we point out that the applicant has provided no information to the Municipality regarding the significant likely increase in noise emissions on the subject property if the expansion is to proceed, including noise generated by machinery; and by the transport used by the property owner to bus seasonal contract workers to the subject property from Hermanus and its environs. There will also be a likely increase in the odours emitted from the property including emissions from crop spraying; vehicle use; and toilets for the seasonal contract workers (which have proved in the past to be entirely insufficient, as one of our clients' principal concerns relates to seasonal workers relieving themselves on surrounding properties with no regard to the accompanying health hazard). It should also be noted that our clients regularly find evidence of contract workers trespassing on their properties, including snares that have caught clients' domestic animals; and human waste as well as litter that is deposited on their properties.

Applicant's response

It has been discussed that this proposal only entails the existing shade netting being converted into intensive horticulture tunnels, which will practically not entail an increase in the footprint of horticulture activities.

The property owner employs Boland Toilet Services to attend to the sewage disposal on the property, which will avert seasonal workers relieving themselves in surrounding properties.

The concern relating to allegations of trespassing can be resolved through discussions between the objectors and Haygrove.

The objector cites that his/her pets were caught in snares on the subject property but does not acknowledge that the objector's pets are not supposed to be roaming on the subject property. If the objector had monitored the movements of his/her pets to not extend beyond the cadastral boundaries, this would not be a problem.

Town Planner's comment

The comments are noted. The berry fields are already planted, and therefore noise, spraying chemicals, etc. is considered as part of the existing farming activities. The tunnels would rather lessen the necessity to spray chemicals, with possible less noise and traffic, etc. as a result.

The comments regarding trespassing, lack of toilets for seasonal workers, injuries to domestic animals, more transport for seasonal workers, etc. are noted. Once again, the agricultural activities took place without the horticulture tunnels, and it would not necessarily lead to an increase to the areas of concern. Most matters should be dealt with between landowners in a rural area. The applicant indicated they will address the concerns of surrounding property owners, at least indicating they want to have good relationships with neighbours.

It is also be noted that a company has been appointed to help with sewage disposal for seasonal workers.

OBJECTION 7(I)

The applicant's assertion that the proposal to develop intensive horticulture tunnels on an additional 11,6737 ha of the subject-property "will not be visually imposing" is simply fallacious. WRAP is somewhat coy in describing the likely maximum height of the proposed tunnels, preferring instead to confirm that they will not exceed the permissible 12m height restriction. In the absence of a proper description of the specific height of the proposed tunnels, we must assume that they will be close to the maximum permissible height (if not at that height).

Applicant's response

Plan 6 is the photo plan, which was submitted with the town planning report, illustrates that the tunnels are approximately 6m high which is not close to the maximum permissible height.

Town Planner's comment

The applicant successfully addressed the concern. The height of the horticulture tunnels can also clearly be seen with the existing horticulture tunnels, to form an idea about scale.

OBJECTION 7(m)

As regards the third factor described by WRAP in purported motivation of the application (alleged positive economic impact) we point out on behalf of our clients that this has been motivated exclusively (albeit entirely superficially) from the applicant's perspective only.

Applicant's response

The motivation report highlights that the approval and implementation of this proposal will increase the number of employees and increase the contribution of taxes and rates. The economic benefits which would be derived from the approval and implementation of this proposal have been motivated from the perspective of how the public will benefit.

Town Planner's comment

The comments are duly noted. The additional yield would increase income for the farm which could lead to an increase in payment for additional labour and also increase in contribution in rates and taxes. This could have a positive economic impact. The applicant's viewpoint is therefore not incorrect.

OBJECTION 7(n)

The applicant purports to conflate the alleged "visual enhancement" of the subject property (which we have already shown to be an indefensible proposition); and growth of the taxable revenue base that would be achieved if the application succeed. The suggestion is made that burdening the subject-property with an additional 11,67372 ha under intensive horticulture tunnels is visually enhancing. This only has to be stated to be rejected. The suggestion that intensive horticulture tunnels covered in artificial material is an enhancement on the current milieu is entirely irrational and is motivated only from the applicant's perspective.

Applicant's response

The submitted planning report has not exclusively been motivated from the applicant's point of view, but the contents were informed by the spatial directives of relevant planning policies. It is undeniable that the property owner will generate an additional income from the approval and implementation of this proposal, and the public good in terms of taxation and employment generation has also been motivated.

Town Planner's comment

The comments regarding statements on visual impact and growth in taxable revenue is noted. The objector might differ in opinion from the applicant's view on visual impact and possible economic impact, but there is no detailed studies or information submitted by the objectors that the applicant's viewpoint is wrong.

OBJECTION 7(o)

Any benefit that might accrue to the State in respect of enhanced tax revenue from the landowner's expanded activities is entirely outweighed by the impacts that the proposed expansion would have on neighbouring landowners, including our clients.

Applicant's response

The only additional impact which neighbours might experience is the conversion of the existing shade netting into intensive horticulture tunnels, which is currently substantially reduced by the existing pine trees which have been intentionally planted in rows. Considering this the benefits which will be derived from taxation far outweigh any probable impact which are cited by the objector.

Town Planner's comment

The statement of the objector is speculative. It basically means that activities/land uses that are normally practiced in rural areas should not be allowed, if it could impact mostly other land uses that was additionally applied for.

This means more productive farming ways must be considered undesirable. It is not clear how the expectation of residents of residential type units should outweigh farm productivity and higher tax revenue to the State.

OBJECTION 7(p)

The applicant suggests that the underlying purpose for the application is to allow the owner of the subject-property to be granted "the most appropriate land use rights to intensify agricultural intensification as prescribed by the WCLPGRA" 26. It is suggested that the intensification will be achieved by increasing capital investment and labour in order to raise the yield of produce on the subject-property.

The objectors submit that this is an entirely one-sided and subjective analysis by WRAP. WRAP's analysis is not supported by any objectively verifiable evidence that intensified land use on the subject-property is sustainable and therefore appropriate. As is shown in these objections with reference to the objectively determinable desirability of the application, the application is inherently

undesirable when all relevant factors are properly considered, and rationally accorded their appropriate weight.

As regards the applicant's statement that the proposal does not entail the fragmentation of the agricultural land uses on the property, that may be correct, but again, is motivated exclusively from the applicant's (subjective) perspective and self-interest.

Applicant's response

Intensive horticulture entails an increase in agricultural production without increasing land coverage. The conversion of agricultural land to intensive horticulture is therefore necessary in light of problems related to food security, human population growth, dwindling land suitable for agriculture, high crop yields and to maintain soil health. The collective benefits of intensive horticulture therefore constitute sustainable agricultural practices which are contextually appropriate.

Town Planner's comment

The objector is of the opinion that the applicant's motivation for agricultural intensification is not proven with objectively verifiable evidence. It is his opinion that if the undesirable factors are considered, the application is not sustainable.

The applicant's opinion that increased yield ensure that larger crops can be grown on limited agricultural land, that it helps with maintaining soil health and help with food security, is supported.

It is therefore safe to say that this type of development, which would increase yield and income, is in line with the aims of the WCLPGRA regarding sustainability.

OBJECTION 7(q)

The comparative strengths of the Hemel-en-Aarde Valley relate not only to high agricultural output but from a variety of agricultural initiatives, including cultivation of grapes and wine production, but also the value of the area as a tourist destination. The application is unlikely to capitalise in any material way on the latter income-earning activities and in fact will in all reasonable likelihood derogate from the tourism attractions currently on offer.

Applicant's response

The proposed conversion of the existing shade netting to intensive horticulture expansion is in harmony with the agricultural land uses prevalent in the Hemel-en-Aarde, which are cited by the objector.

The objector has not provided any substantive evidence to motivate how this proposal will derogated from the tourism related land uses of the surroundings.

Town Planner's comment

The applicant's comment is supported that the objector is speculating that this application will negatively affect tourism.

OBJECTION 7(r)

The application does not meet the imperatives of the SDF, because it does not establish that the proposed expansion (objectively viewed) is to the benefit of all affected residents within the area.

The application is motivated almost exclusively from the self-interested perspective of the applicant, as owner of the subject-property. As such, the application cannot be said to be aligned with the applicable policy imperatives articulated in the SDF.

Applicant's response

The motivation report has also pointed out the relevant clauses in terms of which the submitted applications are consistent with in the SDF.

Town Planner's comment

The objector makes wide statements in terms of the SDF, but no detailed quotes from the SDF is provided. The applicant's opinion that the statements regarding the SDF is not substantive reason to claim inconsistency with the SDF, is supported.

OBJECTIONS RELATING TO SERVICE-RELATED CONSIDERATIONS:

OBJECTION 8(a)

Water: The application states that "the proposed tunnel expansion is aligned with existing water rights capacity." The open agricultural land that is proposed to be utilised for intensive horticultural purposes is currently not being farmed on and hence none of the current applicant's water allocation is being used for that land. Adding an excess of 11 ha of intensive planting is going to require a significant amount of extra water. In addition, the use of tunnels negates the effect of rainwater on the crops which means that the crops would need to be irrigated by run-off water saved in dams, or the Onrust River, for irrigation purposes. The Onrust River is the main supply of water to the De Bos dam which is the main supply of water to Hermanus and its surroundings. Currently, this supply is under severe pressure. Damming up only exacerbates the Hermanus water problems. The river is already reduced to a mere trickle in the dry summer months. We would suggest that the proposal provides more details on current water usage and proposed water usage in the future.

Applicant's response

This proposal has been circulated to the Breede-Gouritz Catchment Management Agency (BGCMA) and no negative comments have been forwarded to Messrs WRAP regarding water related considerations of the submitted proposal.

Town Planner's comment

The application was sent to BGCMA and the latter department had no objection against the application.

Also note the Municipal Engineering Services Department also supports this application.

OBJECTION 8(b)

Boland Toilet Services and sewage trucks enter and leave the farm on an extremely regular basis. Having 3 times more tunnels, hence more workers and more sewage requirements, will require even more trucks which will add to offensive odours and more noise and more traffic.

The description of the proposed development's water-related impacts is superficial in the extreme. It does not put the municipal decision-maker in any position whatsoever to evaluate the impacts likely to be occasioned by water use.

The application boldly states the following, under the head "Water".

"There are historic water rights which exist on the subject property. The proposed tunnel expansion is aligned with the existing water rights capacity. The existing agricultural fields will be converted to intensive horticulture and there will be no expansion of the exiting (sic) agricultural fields. This will ensure that the extraction of water does not exceed existing capacities."

No objectively verifiable proof of the propositions set out above is provided by WRAP or by Haygrove. We submit that the Municipality is entitled to such information in order to make a substantively rational (and therefore lawful) decision on whether the proposed water abstraction is not only "within existing capacities" as WRAP would have it, but also that those abstraction (and storage) capacities are properly authorised. This is particularly relevant to the applicant's compliance with the conditions in the Municipality's written approval dated 9 February 2016 (the first document included as part of annexure "D" to WRAP's application dated 12 August 2019), and in particular, condition 3(g) of the Municipality's approval read with annexure "I" to that approval.

We submit that the Municipality will have to satisfy itself as to Haygrove's compliance with the terms and conditions of the land use planning approval granted on 9 February 2016 (including its validity period) before Haygrove can legitimately expect the Municipality to consider the current application delivered by WRAP in August 2019.

Applicant's response

It has been stated earlier that the approval of this proposal will only entail the conversion of the existing shade netting to intensive horticulture and not a substantial increase in activities.

Notwithstanding the above, Haygrove prides itself in the fact that the sewage services provided by Boland Toilet services are hygienic and without any excessive offensive smells. The objector can rest assured that the current sewage volumes will not alter the sound sewage management conducted by Boland Toilet services.

Town Planner's comment

The comments are noted. As indicated by the applicant, the new horticulture tunnels will be placed over existing berry fields, which should not lead to a substantial increase in water use.

The concerns regarding sewage disposal were also duly addressed by the applicant.

The reference to a condition of approval in 2016, by the objector, is noted. This condition refers to the Municipal Engineering Services Department's comments which stipulated no municipal water were available in such area. It also stipulated that any conditions as may be set by DWAF must be complied with. BGCMA (comment on behalf of DWAF) was again requested to comment on this application and indicated that such Department had no objections.

It is to be noted that the landowner is bounded by law that they can only make use of existing water rights or will have to apply to BGCMA for additional rights. The applicant indicated at this stage water on the farm is sufficient.

OBJECTION 8(c)

What is also notable about the applicant's purported motivation as currently framed is the wholesale omission to deal with aspects and likely impacts that are centrally relevant to the desirability enquiry obliged by law of the Municipality, with particular reference to the impacts likely to be suffered by the objectors in the event that the application is approved by the Municipality. These include (but are not limited to) the following:

- ***The wholesale failure by the applicant to address the issue of sustainable water supply to the subject-property for purposes of the expanded intensive agricultural activities envisaged by the applicant, to meet its likely demand. We submit that to the extent that the applicant pursues the application, the Municipality should oblige the applicant to produce an appropriately detailed analysis of the existing and proposed operation's water abstraction, storage and use patterns, and should provide written proof to the Municipality that the applicant holds the relevant statutory water use rights in respect of those uses, and***
- ***The impact of the proposed relaxation of the building lines on the respective obligations of the owner of the subject-property, and adjoining and proximate neighbours, in terms of the National Veld and Forest Fire Act.***

Applicant's response

- The Overstrand Municipality has circulated the application to BGCMA for comments on water related considerations which will inform the planning decision; and
- Haygrove did a fire risk assessment which was conducted by an independent specialist consultant where risk mitigation measures were implemented as a result of the incident cited by the objector.

Town Planner's comment

The matter regarding water rights and use have been discussed under 8(b) above. A fire risk management plan was conducted by Haygrove Heaven, which stipulate mitigation measures as mentioned by the applicant. It will be discussed in more detail later in this report.

OBJECTIONS RELATING TO PROCEDURAL CONSIDERATIONS:

OBJECTION 9(a)

Firstly, we believe that this application should not be processed without considering the separate application for Portion 11 of Farm 587. Both these

properties are owned and/or operated by the same company. They are next door to each other and affect the neighbours and surrounding farms as one entity. The total expansion of tunnels on both farms would be in excess of 31 ha and total area of tunnels under plastic and shade cloth after expansion would be in excess of 52 ha.

Applicant's response

The Overstrand Municipality is considering the separate application which was submitted by Messrs WRAP for Portion 11 of Farm Hemel-en-Aarde 587 Caledon in conjunction with this application and will make a decision which considers the holistic impact and implications of the approval and implementation of the proposal as requested by the objector.

Town Planner's comment

The Municipality cannot enforce it on the applicant to submit one single application.

Both applications will be tabled to the Municipal Planning Tribunal (MPT) at the same time, to ensure the MPT apply their minds with respect to the cumulative effect of the applications.

OBJECTION 9(b)

We submit that the material circumstances pertaining to the application (first delivered by WRAP to the Municipality in August 2019 and on which our clients are now requested to provide their comments and objections) have changed materially in the past 11 months and, in the last 6 months by virtue principally of the impact of the Covid-19 pandemic, and its massive negative impact to date on global and domestic economics.

We submit that the belatedly circulated application must be properly supplemented not only in respect of the materially changed circumstances since the application was first delivered to the Municipality, in mid-August 2019, but also in respect of full and detailed response to the objections set out in this document, and any other material objections received. The application, once approximately supplemented, should commence afresh and be advertised accordingly for comments.

We submit that this is the only legally defensible approach that the Municipality can take in the circumstances, based on the Municipality's failings to date by the omission to ensure proper and timeous notification of the application to objectors within a reasonable period of the Municipality's receipt of the application. Requesting comments on the application almost one year after it was lodged is legally indefensible because the vintage of the application means that it does not present a full and contemporaneous motivation on the merits. That has the result that the decision-maker cannot be in possession of all the facts relevant to the merits of decision.

The Municipality is specifically enjoined by the By-Law to consider "the procedure followed in processing the application for purposes of exercising its decision-making functions in a manner that is constitutionally sound. In this instance, we submit that the procedure we have spelled out above should be followed in this instance, both because of the passage of time since WRAP delivered the application and because of the materially changed circumstances

since then and in particular, since early March 2020 and the first documented arrival of the Covid-19 virus in South Africa.

Applicant's response

The shift in economic circumstances caused by Covid-19 is undeniable. It is submitted that Covid-19 has not had any impact on the agricultural output of the subject farm as Haygrove was allowed to remain operational even during periods of the most restrictive regulations being in place. Considering the above, the projected growth of the intensive horticulture for the subject property has not materially changed, which does not invalidate any aspects of the application which were submitted prior to Covid-19. This therefore nullifies the request by the objector that the submitted application be supplemented or commence afresh considering that the contents of the application are still relevant post Covid-19. There are also no provisions in the By-Law which stipulates that a change in the general economic climate may necessitate the supplementation of a motivation report and fresh commencement of a planning application and public participation process. There is therefore no legislative grounds which rationalise what is sought by the objector.

The impact of the Covid-19 regulations has caused considerable delays in the public participation process. As stated earlier, the economic meltdown caused by Covid-19 has had minimal impact on the agricultural output and activity of the subject farm, which makes the merits of the motivation report submitted prior to Covid-19 still relevant.

Town Planner's comment

The objector's comment with regards to the need for additional information due to the Covid-19 pandemic is noted. The applicant however duly addressed this point and indicated that Covid-19 had no impact on the agricultural output of the subject farm as the farm remained operational. It is the applicant's opinion that the projected growth of intensive horticulture for the property has not materially changed, and it is therefore not necessary to supplement the motivation report and a new public participation process.

The applicant's opinion that there is no legal requirement for the application to be re-advertised due to the impact of Covid-19, is supported.

The objector is also of the opinion that due to the long-time lapse from mid-2019 when the planning application was delivered to the Municipality, to the notice sent to the objector at the end of June 2020, does not comply with the reasonable period the Municipality had to place notices.

The applicant did not provide additional comment on this point from the objector.

It is to be noted that although the application was submitted in August 2019, the Municipality requested some additional information to be provided before notices could be served for the application.

The Municipality also cannot place notices/advertisements over the December/January school holiday periods, and therefore could only serve notices in mid-January 2020. After the notification period it became known to the Municipality that, due to a lack of postal information, some surrounding property owners did not receive notices. At that stage, approximately mid-March 2020, the possibility of a lockdown due to Covid-19 became a possibility, and no notices could be sent to the property owners who did not

receive notices. From March 2020 no notices could be sent, and the Municipality could only send out notices again in June 2020.

Considering the above, the application was only completed for notification in January 2020, and the further notices sent out could only be sent out five (5) months after such period, due to the protocols as required by the Provincial Government in terms of Covid-19 protocols.

It must also be noted that Section 54 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 state the following:

*“The Municipality may, at any stage during the processing of the application –
(a) Require notice of an application to be republished or to be served again, and ………”*

It is therefore the opinion that the Municipality acted correctly by serving notices to property owners who did not receive in the first public participation process in January 2020.

It was also established in December 2020 that no comments were obtained from DEA&DP: Environment, and such department was requested to provide a comment to ensure no environmental listed activities were triggered. This is due to the fact that the Municipality cannot make a decision if the provision of any other law still had to be obtained.

The relevant state department requested additional comment from the applicant, and ultimately the Department of EA&DP: Environmental Branch provided their comment in writing that no listed activities in terms of Environmental Legislation are triggered. Their comment was received at the end of August 2021 (attached as Annexure F) to this application.

The above clearly show that the timeframe of the application was affected by the Covid-19 lockdown, but that all possible affected surrounding property owners and relevant Municipal and State Departments were consulted with to obtain all the necessary input to consider the application.

OBJECTION 9(c)

On the facts and circumstances of the application, we submit that the Municipality’s officials and the chairperson and members of the Municipal Planning Tribunal (or any official delegated to make the decision that is the subject of these objections) must undertake a site visit of the subject-property and its surrounds in order fully to apprise themselves of the current intensive agricultural operations on the subject-property, and the significant and objectionable impacts that would be caused to the subject-property’s neighbours and other proximate landowners in this part of the Hemel-en-Aarde valley if the development proposal envisaged in the application is authorised to proceed by the Municipality.

The Municipal official’s powers to enter land or a building for purposes of assessing an application made in terms of the By-Law, and in order to prepare the written assessment of the application contemplated by Section 57 of the By-Law are set out in Section 60.

Particularly in light of WRAP’s entirely superficial analysis of water rights and the likely impact the proposed expansion of Haygrove’s agricultural activities on

water resources without a proper analysis of those rights, we submit that it is incumbent upon the municipal decision-maker to establish the relevant facts. That is best done on-site, where Haygrove's personnel can reasonably be expected to produce the relevant documentary information pertaining to water use rights, including storage and abstracting rights.

Applicant's response

The Overstrand Municipal planners are diligent and tend to conduct site visits where the findings thereof are used to inform the recommendation made to the Municipal Planning Tribunal.

Town Planner's comment

The official who prepared the report did visit the site in September 2021 and would recommend that members of the MPT do the same before taking a decision on this application. The comments regarding water rights were already addressed under Points 8(b) and 8(c).

OBJECTIONS PERTAINING TO ECONOMIC AND PROPERTY VALUE RELATED CONSIDERATIONS:

OBJECTION 10(a)

Paragraph 12.13 on Economic Impact states that "intensive horticulture is more labour intensive in comparison to other agricultural land use". This statement is almost a direct contradiction of the statement in paragraph 6 which states that "workers occasionally work in the tunnels for a short time". Which statement should you believe? Many of the workers are seasonal workers hence only work for a short time of the year.

Applicant's response

Every square meter of intensive horticulture tunnel is more labour intensive compared to every square meter of conventional agriculture due to plants growing faster and having to be replanted more frequently as the temperature and conditions in the tunnels are manipulated to be more ideal for the growth of the produce. The workers are not working in each tunnel every day, but rotate work in between different tunnels, which results in the time spent in each tunnel not being the whole day but different time intervals. The submission relating to the labour intensiveness of the horticulture tunnels and short rotational times spent in the tunnels are an accurate depiction of the reality.

Town Planner's comment

The applicant did address the concern.

OBJECTION 10(b)

In order to sustain an argument that there will be a positive economic impact, the applicant is obliged to provide more information than a mere bold statement to the effect that the approval and implementation of the application will substantially increase the number of people employed on the subject-farm, thereby reducing poverty in the area. Without the provision of specific and detailed information regarding (at the very least) the number of likely future

employees; and indication of the wages that those prospective employees will earn, and all and any other relevant detail in support of the assertion that the applicant will contribute to the reduction of poverty, this so-called motivating factor cannot be sustained. There is no evidence to support it.

Applicant's response

Haygrove has spent R90,329,082.00 over the past 12 months in Hermanus on local salaries, wages and materials and very few companies in Hermanus have such a substantial wage bill. The employees in turn have 2 to 3 dependants with whom salaries are shared for survival, which constitutes a significant economic impact in Hermanus, which should not be understated. Haygrove also provides employees with necessary medical care via a registered nurse to ensure that employees are quickly attended to in times of illness and transported to the nearest hospital in cases of serious emergencies.

Town Planner's comments

The applicant duly addressed the objection. It is to be noted that the fact that the applicant did not provide full details of the positive economic impact of the application, an increase in yield would ensure additional income to the farm, and ultimately be positive for the economy.

OBJECTION 10(c)

The substantive importance of our client's objection to the applicant's purported motivation of positive economic impact has been underscored by the economic impacts of the Covid-19 pandemic. The applicant will have to be much more candid with the Municipality regarding the current economic situation (in particular, job creation and retention) if the application is to have any reasonable prospect of success once supplemented and re-advertised for public comment on the new and material information contained therein.

Applicant's response

The property owner has retained employment opportunities during the Covid-19 as there has been prohibition placed on agricultural trade. Business is booming and the approval and implementation of this proposal will substantially increase employment opportunities.

Town Planner's comment

The applicant's response is supported.

OBJECTION 10(d)

The applicant provides no detail whatsoever as to the quantification of the economic proceeds to be shared with workers on the subject-property (who are engaged as seasonally used independent contractors by the landowner, rather than formally employed). As we understand the current situation, and the impacts of the Covid-19 pandemic, the applicant has in fact retrenched or otherwise laid off a significant proportion of its workforce.

Applicant's response

As state earlier, Haygrove has spent R90,329,082.00 in the past 12 months on wages and materials. The farm was operational during the lockdown and no retrenchments occurred.

Town Planner's comment

Duly addressed by the applicant.

OBJECTION 10(e)

We submit that this is yet another aspect on which the applicant must substantially supplement its application, with particular attention to the changes in its business since March 2020 in light of the adverse impacts caused by the Covid-19 pandemic.

Applicant's response

The Covid-19 Regulations have had no impact on the ability of the subject farm to increase agricultural output. Considering this, no need has arisen for the scale of the submitted application to be reduced.

Town Planner's comment

Duly addressed by the applicant.

OBJECTION 10(f)

The applicant suggests that a very significant increase in the infrastructure on the subject-property (by the addition of a threefold increase in multi-coloured, plastic-covered intensive horticulture tunnels), and the associated expansion in agricultural activities that will follow on the expansion, do not impact on neighbours' reasonable rights to the use and enjoyment of their property. That suggestion must be rejected because it is nonsensical.

Given that the applicant seeks the enhancement of the existing "envelope" of development rights that currently apply to the subject-property, by way of:

- ***The amendment of conditions 3(a) in the approval granted by the Municipality in writing on 9 February 2016;***
- ***The significant relaxation of the side building lines on all four boundaries of the subject property in order to allow for the development of significant infrastructure there; and***
- ***A departure to exceed the maximum allowable footprint of buildings on the site (from 50,000m² to over 175,000m²).***

We submit that the applicant's application clearly obliges the Municipality to have full and proper regard inter alia to the likely diminution in the value of the objector's properties that would follow on the grant of enhanced development rights to the owner of the subject-property. No such analysis has been provided by the applicant. We submit that this omission is fatal to the applications' prospects of success. The applicant's planner's bald statement to the effect that

there will be no infringement on existing land use rights (including the objector's right to the reasonable use and enjoyment of their properties) is simply fallacious in the circumstances.

Applicant's response

As stated earlier, the practical impact of the approval and implementation of this proposal would result in the conversion of the existing shade netting to horticulture tunnels.

The following factors have an impact on property values:

- Location
- Supply and demand
- Interest rates
- Economic outlook
- Property market performance
- Population and demographics
- Size and facilities
- Aesthetics
- Renovation potential
- Investment potential; and
- Energy efficiency.

The objector pins the likely diminution on the property values of the surrounding properties without analysing the probable impact of the factors listed above on property values. The pinning of property values on the approval and implementation of this proposal on a single application negates a holistic set of factors which determine property values.

The other reason for why no analysis was made of the likely impact of the approval and implementation of this proposal on property values is the following excerpt from Section 7(vi) SPLUMA.

SPLUMA highlights the following:

"A Municipal Planning Tribunal considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property is affected by the outcome of the application."

Property value therefore has no bearing on the outcome of an application, hence the negation of this aspect in the motivation report.

Town Planner's comment

The comments of the objector and applicant are noted.

It must also be noted that although residents in the area have existing rights, this is an agricultural area. To determine property value the value of surrounding properties is usually considered. This area has residential estates, wine farms, stud-farms and then also berry farms. It would therefore be debatable what the increase in productivity on this property would mean for the land value of surrounding properties with different land uses.

The right for use and enjoyment of a property cannot directly be used to determine property value.

OBJECTION 10(g)

The suggestion that inclusive economic growth will be promoted by the application is not suitably motivated by the applicant. Although our clients are clearly alive to the fact that the owner of the subject-property would benefit substantially from the increased production envisaged by the addition of intensive horticulture tunnels on a further 11,6737 ha on the subject-property, there is no explanation as to how that economic growth would benefit parties other than the property owner (and to a lesser extent, the workers who might be contracted as a result of the expansion).

Applicant's response

The approval and implementation of this proposal will retain the tax which is currently collected from the subject property, while the refusal thereof will diminish the agricultural output and taxes collected by SARS. The taxes are crucial for service delivery and benefit the public, including the objector.

Town Planner's comment

The applicant's comments are duly noted.

The increase in yield would bring in more income, which will ultimately help pay salaries for workers and also pay for additional services required due to the increased yield.

OBJECTION 10(h)

Furthermore, the applicant provides no indication whatsoever as to the share of that income that would be derived by the seasonal contract workers. It is therefore facile and misleading to suggest that the application promotes sustainable rural development, or that such development is appropriate and inclusive.

Applicant's response

The share of the employee's income from the gross income of the company fluctuates depending on the crop yield and fluctuating rand value in relation to international currencies. It would be difficult to provide the objector with reliable statistics in this regard due to the fluctuating nature thereof.

Town Planner's comment

The applicant did address the objection.

OBJECTION 10(i)

There is also no objectively verifiable proof provided with the application in respect of the engagement of employees as opposed to the ad hoc retention of (and more recently, the termination of contracts with) contract workers. To the extent that the applicant's planner suggests that the rural and urbanised poor who will allegedly benefit from the implementation of the development will enjoy

tangible benefits, there is no evidence put up in support of the application that verifies that assertion.

Applicant's response

The urbanising poor have been and will continue to be the largest beneficiaries of the approval and implementation of this proposal. Most employees are urbanised and enjoy tangible income benefits from the intensive horticulture operations on the subject-property.

Town Planner's comment

The applicant's comments are duly noted, and the objections addressed.

OBJECTION PERTAINING TO FOOD SECURITY:

OBJECTION 11(a)

Paragraph 12.4 on Need: Berries, soft fruits and fynbos do not "increase and enhance food security". They are luxury items that mostly get exported to other countries.

As regards the fourth factor described by WRAP in purported motivation of the application, our clients take issue with the applicant-planner's statement that there is therefore a definite need for the OM to approve this application so that the owner of the subject-property can contribute to increasing and enhancing food security. The fact of the matter is that the applicant produces premium soft fruit (berries) which are principally destined for the export market as a premium fruit product. To suggest that the Municipality approving the application will ensure the owner of the subject-property's contribution to increasing and enhancing food security is overstated.

Applicant's response

The berries and soft fruits are exported to other countries and contribute to the food security of other parts of the world. Berries and soft fruits are high in a variety of vitamin content which is crucial for the health of consumers and for this reason cannot be classified as a luxury but rather as a necessity.

Town Planner's comment

The comments are noted. It is safe to say intensive horticulture tunnels will help increase yield, which increase food production. The definition of food security in terms of the Oxford Dictionary is "of having reliable access to sufficient quality of affordable nutritious food".

Even if berries is considered a high end food, the production of more food of very high nutritional value is an important part of world-wide food security.

The additional income that can be generated for employees would also provide them with finances for reliable access to food.

OBJECTIONS PERTAINING TO ENVIRONMENTAL CONSIDERATIONS:

OBJECTION 12(a)

Paragraph 12.6 on Environmental Impact: Invasive Alien Pine trees are planted between the blocks of tunnels to hide the ugly black shade cloth. The pristine fynbos on the surrounding mountain is full of young pine trees which have grown in last 4 years. Before that the vegetation was pristine indigenous fynbos. While other farmers in the area are trying to remove the invasive aliens, the applicant is planting more of them. The applicant may argue that the young pine trees are growing on neighbouring properties, but the neighbours have no control over where the seeds will blow and land. The pine trees also utilise a significant amount of water which is the run-off water ultimately supplying the Onrust River, which is used to fill the De Bos Dam, one of Hermanus water supply. Fires in the area are also a grave concern, and these pines also exacerbate the problem.

Applicant's response

The pines planted by Haygrove for windbreaks are coastal beefwoods and not the same spreader pine species as implied by the objector. Furthermore, Haygrove conducts alien clearing on an annual basis across its entire property. No farmer has any control over wind direction the seeds. It is however the responsibility of each farmer to conduct the clearance of alien vegetation on respective farms.

Town Planner's comment

The applicant addressed the concern.

OBJECTIONS PERTAINING TO THE CONSTITUTIONAL TRANSFORMATION IMPERATIVE OF THE STATE:**OBJECTION 13(a)**

We think that the "implementation of the constitutional transformation imperatives of the state" should be investigated more thoroughly and more detail should be supplied in this regard.

Applicant's response

The constitutional transformation imperative of the state is to create an enabling environment for farmers to increase agricultural output and simultaneously increase employment opportunities. The consistency of the submitted proposal in conjunction with this has been thoroughly motivated.

Town Planner's comment

The comments are noted. The objector's opinion that there was a lack of information regarding economic transformation, is noted, but this does not mean the application is undesirable.

OBJECTION 13(b)

The sixth criterion analysed by the applicant's planner, purportedly in motivation of the application is under the head "Environmental Impact". The applicant's

planner submits that no activities listed in terms of the National Environmental Management Act (NEMA) are triggered by the development proposal. The applicant's submission is that the proposed intensive horticulture tunnel expansion is not located on the environmentally sensitive part of the subject-property (with reference by the applicant to a plan appended to the application as Plan 5).

On behalf of our clients, we submit that the purported motivation is both superficial and entirely misplaced. The correct enquiry that should have been made by the applicant's planner relates to whether the jurisdictional requirements of any of the listed activities respectively set out in the NEMA EIA Regulations' three Listing Notices are triggered on the facts of the application.

In the circumstances we submit that it behoved the applicant's planner to analyse the facts of the proposed intensive horticulture expansion and the receiving environment in the areas where the new tunnels are proposed in order to establish whether any NEMA-listed activities are triggered, and then to obtain written confirmation from the competent authority responsible for administering NEMA and the NEMA EIA Regulations of the applicant's assertion that the expansion does not require environmental authorisation.

We have no doubt that the Municipality will ensure that the necessary enquiry is made to the provincial Department of Environmental Affairs and Development Planning (by the applicant, and at the behest of the Municipality before the latter can progress this application) in order to confirm unequivocally whether NEMA-listed activities are triggered on the facts of the proposed expansion. If NEMA-listed activities are triggered on the facts, then the applicant will be obliged to undertake the necessary environmental assessment procedures stipulated under NEMA read with the NEMA Regulations, and to obtain environmental authorisation before the Municipality can decide the land use applications on their merits.

Applicant's response

The Overstrand Municipality has circulated the planning application to Department of Environmental Affairs and Development Planning for comments related to environmental considerations.

Town Planner's comment

The application was circulated to EA&DP: Environmental and the Municipal Environmental Management Services Department. The latter departments indicated their support for the application.

OBJECTION 13(c)

Whilst it is correct that the State's transformation imperatives include enabling farmers to achieve economic growth and sharing the proceeds of that growth with their employees, the baldly states and unsupported suggestion that this will occur on the facts of this matter must be rejected by the Municipality because the statement is supported by no objectively verifiable evidence.

Applicant's response

The approval and implementation of the expanded intensive horticulture tunnels will invariably lead to additional employment opportunities being generated. This is supportive evidence of the state enabling the implementation of the constitutional transformation imperative.

Town Planner's comment

The comments are noted. The objector's opinion that there was a lack of information regarding economic transformation, is noted, but with an increase in yield additional income will be generated with some of the income that will be flowing to the working force on the farm.

OBJECTIONS RELATED TO HEALTH-RELATED CONSIDERATIONS:

OBJECTION 14(a)

As mentioned in the objections above, the proposed expansion can only negatively affect the neighbouring residents "health, wellbeing and comfort", therefore their land use rights will definitely be infringed upon.

Applicant's response

The objector is making broad statements relating to how the health and wellbeing will be adversely impacted on, without providing any evidence to support this claim.

Town Planner's comment

There is no factual information proving negative health impact on neighbours, and it is also speculative to make the statement that wellbeing and comfort will be affected should this application be approved.

OBJECTION 14(b)

Another significant concern from the perspective of residents' health is the impact of spraying the berries. Residents have complained of asthma, shortness of breath, and other respiratory impacts when spraying occurs. This is likely to be increased significantly if the current operations are expanded, as proposed.

Applicant's response

The underlying health related conditions which are highlighted by the objector are sympathised with, but the following factors also contribute to asthma.

- Airborne substances such as pollen, dust mites, pet dander or particles of cockroach was;
- Respiratory infections, such as the common cold;
- Physical activity (exercise-included asthma);
- Cold air;
- Air pollutants and irritants, such as smoke;
- Certain medications, including beta blockers, aspirin, ibuprofen (Advil, Motrin IB, others) and naproxen (Aleve);
- Strong emotions and stress;

- Sulphites and preservatives added to some types of foods and beverages, including shrimp, dried fruit, processed potatoes, beer and wine; and
- Gastroesophageal reflux disease (GERD), a condition in which stomach acids back up into your throat.

For the objector to blame the illness on the activities on Haygrove and to suggest that the approval and implementation of this proposal would worsen the situation without having considered other probable causes, is unfair towards the owner of the subject-property.

Notwithstanding the above, the products used by Haygrove have been authorised for use by different health authorities and are unlikely to be the cause of the objector's respiratory illnesses. Spraying occurs occasionally on the subject premises and does not occur on most nights.

Town Planner's comment

The comments are noted that the spraying of the berries create health problems. The applicant's detailed response from a medical perspective is noted and will not be commented on.

It must however be noted that even vines, which are grown extensively in the Hemel-en-Aarde Valley may require spraying with pesticide at times. The tunnels will also reduce parasites on plants, which entails less spraying. Also, Haygrove Heaven must comply with very strict rules regarding using chemicals.

The fact is the spraying of chemicals in agricultural areas is required for healthy crops, and it is an action associated with farmland areas. That is why any person living in such rural environment will have to accept that there would be such an activity.

OBJECTIONS PERTAINING TO HERITAGE RELATED CONSIDERATIONS:

OBJECTION 15(a)

As regards the fifth factor used in purported motivation of the application, the applicant's planner states (somewhat glibly, we submit) the following: "None of the provisions in the National Heritage Resources Act, 1999 are triggered by this proposal."

On behalf of the objectors, we contest this statement. We point out that Section 38(1)(c) of the National Heritage Resources Act (NHRA) obliges any person who intends to undertake a development categorised as any form of development or other activity which will change the character of a site exceeding 5,000m² in extent, at the earliest stages of initiating such a development, to notify Heritage Western Cape (HWC), and furnish HWC with details regarding the location, nature and extent of the proposed development. The only organ of state with the requisite statutory competence to decide whether the jurisdictional requirements of Section 38 of the NHRA are triggered on the facts of this matter is HWC. In support of our submissions regarding the likely application of Section 38 of the NHRA, we point out that the subject-property is already occupied by intensive horticulture tunnels that cover over 5 ha of that property. The current character of the subject-property is defined by a mixture of tunnels and open agricultural areas. That creates a tapestry of plastic-clad structures and vegetated areas. What the applicant now proposes is an artificial and monochromatic landscape and would present a jarring contradiction with the natural surrounds in this part of the Hemel-en-Aarde Valley that will irrevocably change the character of the

area. This is entirely clear from Plan 3 appended to the applicant's motivation, which clearly shows that the southern half of the subject-property will be effectively blanketed in plastic-covered horticulture tunnels which would extend almost to all of the subject-property's boundaries.

In our submission, and in the event that the physical expansion of tunnels is permitted by the Municipality (across an additional 11,6737 ha of the subject-property) then that expansion would amount to a change in the character of the site. This is by virtue of the very significant increase (by almost two and a half times the physical extent of the existing tunnels) in the surface area that would be occupied by the proposed tunnels. The change in character is compounded by the fact that much of the proposed tunnel infrastructure would occur in the area formerly reserved as being outside the demarcated (30m) lateral building lines on the subject-property.

No doubt the Municipality will now oblige the applicant to furnish written confirmation from HWC to confirm the applicant's assertion that no provisions in the NHRA are triggered on the facts of the applications.

A failure by the Municipality to oblige the applicant to comply with the requirements of Section 38 of the NHRA before the Municipality considers the merits of the land use applications will constitute an appealable irregularity.

Applicant's response

A notice of intent to develop was submitted by WRAP to Heritage Western Cape and a Record of Decision highlights that there is no reason to believe that the proposed expansion will impact on heritage activities.

Town Planner's comment

The planning application was forwarded to Heritage Western Cape who indicated there will be no heritage impact. The objection has therefore been addressed.

OBJECTIONS PERTAINING TO HISTORIC RELATED CONSIDERATIONS:

OBJECTION 16(a)

Whilst it is correct that the Municipality approved intensive horticulture on the subject property in its record of decision dated 9 February 2016 there can be no suggestion that the aforesaid approval in any way indicates the Municipality's view regarding the desirability of the current application. In fact, the opposite: the Municipality prescribed a condition that explicitly limits the placement and scale of horticulture tunnels (condition 3(a) in the Municipality's record of decision dated 9 February 2016. The Municipality therefore made clear its views then on the scale of Haygrove's operations, and how those operations could reasonably be expanded.

Applicant's response

The objector's assertion is agreed with. The motivation report has motivated the desirability of the submitted application in conjunction with the relevant provincial guidelines. There are grounds which justify the proposed expansion of horticulture activities.

Town Planner's comment

The comments are noted. This is however a new application which must now be considered in terms of the motivation, objections, and input of state or other departments to determine its desirability.

OBJECTION 16(b)

We submit the fact that there are existing horticulture tunnels on over 5 ha of the subject-property does not in any way motivate the desirability of a more than threefold expansion of the horticulture tunnels that are not proposed for the

Applicant's response

The desirability of the submitted proposal hinges on the positive economic impact, which are in the interest of the public and the state. This has been extensively motivated without exclusively assuming which relies on the assertion that the existing horticulture tunnels motivate the desirability of the submitted proposal.

Town Planner's comment

The comments are noted. This is however a new application which must now be considered in terms of the motivation, objections, and input of state or other departments to determine its desirability.

OBJECTIONS PERTAINING TO PLANNING PRINCIPLES:**OBJECTION 17(a)**

The applicant suggests that the implementation of the proposal, by its approval by the Municipality will contribute to combating spatial development imbalances caused by apartheid spatial planning.

The seasonal contract workers retained by the applicant are bussed to the subject-property on a daily basis from Hermanus and the town's environs, in order to perform their work. At the end of the day, they return to the homes in which they reside, which are principally informal structures within the townships surrounding Hermanus. There can thus be no suggestion that the approval of the proposal would contribute to addressing spatial development imbalances as the applicant would have it.

15.1 mentions opening up economic opportunities in the Hemel-en-Aarde rural area to the benefit off all rural residents". Staff on the farm are bussed in from Hermanus town, therefore there is no benefit to rural residents. There are also no tourism benefits. It would be interesting to find out what economic opportunities are alluded to in the statement.

Applicant's response

The structures which some of the employees reside in might be informal however the following benefits will be derived with the approval and implantation of this proposal.

- The current employees will derive an income which would enable the existing informal residential structures to be converted into formal bricks and mortar structures; and
- The currently unemployed people who will be employed on the subject property will also earn an income to upgrade informal buildings to formal ones.

The cumulative impact therefore would be an incremental visual enhancement and improved living conditions of employed inhabitants who reside in townships. This would therefore contribute to addressing the apartheid spatial legacy and create more functional and visually appealing settlements.

Town Planner's comment

The objections are noted. Although it is difficult to determine the degree of the impact on the historically marginalized, any form of income would help improve the conditions at home for the employees, and as indicated by the applicant, afford them the finances to improve their living conditions. Also, the possible raise in income employees will be able to seek higher quality accommodation.

The applicant did not provide a clear response on the point of objection referring to what the benefit would be to rural residents, but to name one is the servitude road to Haygrove Heaven that they tarred, and it is also now used by other landowners.

OBJECTION 17(b)

As regards the applicant's assertion that the implementation of the development proposal would increase agricultural output which promotes efficiency and the output will be higher with low resource input, we submit on behalf of the objectors that there is a fundamental difference between efficient utilisation (as the applicant would have it) and sustainable utilisation that properly strikes a balance between the ecological, social and economic impacts of the proposal. To the extent that utilising the subject-property more efficiently impacts significantly and negatively on the existing rights of neighbouring property owners to reasonably use and enjoy their property, the application simply does not pass muster.

Applicant's response

Efficiency is a development principle which permeate in all planning legislation and spatial planning policies. Efficiency does not necessarily mean compromising on sustainability, as the submitted motivation illustrates that the approval and implementation of this proposal will not compromise on the delicate balance between ecological, social and economic impacts.

Town Planner's comment

The objector's statement regarding sustainable development and that it should not negatively impact the surrounding area is a valid statement.

The area is an agricultural area where farming activities take place. Increase in farming activity impacting on surrounding properties should have been expected by surrounding property owners, considering farming methods and technology change over time to better farming production. It still does not then mean the practise is not sustainable.

OBJECTION 17(c)

As regards the planning principles pertaining respectively to spatial resilience and good administration, we submit on behalf of the objectors that the proposal is not in harmony with the relevant spatial planning policies. WRAP's proposition that the subject proposal is in harmony with the relevant spatial planning policies pertinent to the subject-property and therefore (if approved and implemented) able to absorb environmental and economic shock in a timely and efficient manner can now be properly tested against the impacts of the Covid-19 pandemic. We submit that the applicant must provide an analysis of the impacts of the latter occurrence in order properly to inform the Municipality's decision-making discretion in regard to this application.

Applicant's response

The Covid-19 regulations have not had any environmental shock impact on the existing wetland and river which traverse the subject property. The location of the proposed horticulture tunnels is therefore not in environmental harm's way.

It has been reiterated that the intensive horticulture tunnel activities on the subject property have not been economically impacted by Covid-19 regulations. This analysis provided in this response to objections therefore forms part of latter occurrences, which will inform the Overstrand Municipality decision making process.

Town Planner's comment

The objector and applicant's comments regarding spatial resilience are duly noted. Ultimately the Municipality will consider all the information and take an informed decision, in compliance with the planning principle of good administration.

GENERAL COMMENTS MADE REGARDING THE SUBMISSION:**OBJECTION 18(a)**

The visual impact of permitting an almost threefold increase of plastic-covered tunnels and a significant departure to the permissible floor area are not described in sufficient particularity to place the Municipality in a position to make a properly informed and objective decision to approve the application.

It follows in our submission that the only decision that the Municipality can make on the facts and circumstances as presented and purportedly motivated by the applicant (and entirely rebutted in these objections) is to refuse the application on its merits.

As regards the proper administration of the application and good administration generally by the Municipality, we submit that a proper and objective analysis of the merits of the application must result in the refusal thereof.

Applicant's response

The objector does not provide sufficient or substantive rebuttals which justify the refusal of the submitted application.

Town Planner's comment

It is for the Municipality, with the input of various state departments, to make a decision on if the information provided are sufficient to make an informed decision.

OBJECTION 18(b)

An important aspect of a properly constituted site visit will relate to the municipal decision maker satisfying itself as to the applicant's compliance with the stipulations set out in the Municipality's approval granted on 9 February 2016 and pertaining to Haygrove's first application for consent use and departure to accommodate the infrastructure required for "intensive horticulture (tunnels)", as that approval described it. The same applies to the relevant conditions in the 2016 municipal approval and to the documents referred to in those conditions. For example, condition 3(g) of the February 2016 municipal approval states the following ".....(g) that all conditions in the Services Report (attached as Annexure I) be complied with; ... The Services Report includes the following condition: "....2. That no water service from Overstrand Municipality is available and the developer will be responsible to obtain the necessary approval (sic), licence and permits from the applicable authorities (water affairs, health, etc.) for the use of any water resources and the extraction thereof.

Applicant's response

The Overstrand municipal planner will assess the application in conjunction with the factors, which have been highlighted by the objector above.

Town Planner's comment

The comments are duly noted. All facts will be considered, and a site inspection was done to help consider the application.

Note that BGCMA and the Municipal Engineering Services Department again provided their comments on this application and had no objections. Also note, that should BGCMA have any concerns regarding water use, they will attend to such matter as it is their mandate.

Note that the town planner also investigated other conditions that had to be complied with, and this will further be discussed under point 12. "The desirability of the proposal".

OBJECTIONS PERTAININ TO THE ALLEDGED DEFECTIVE NATURE OF THE SUBMITTED APPLICATION:**OBJECTION 19(a)**

Annexure B to the application includes a power of attorney signed by a director of the owner of the subject-property and a company resolution. The power of attorney authorises WRAP to undertake the following acts: The application for amendment of conditions of approval and departure from building lines. The company resolution signed by the directors of the subject-property's owner authorises one of the directors to act on behalf of the company regarding applications for the following: Amendment of conditions of approval and

departure from building lines. Neither the power of attorney nor the company resolution makes any reference to an application for departure from the maximum of 5,000m² allowable floor space for all buildings on the land unit, to permit a floor space of 17,8444 ha [over 178,000m²] in order to accommodate the infrastructure required for intensive horticulture. It follows in our submission that the necessary authority has not been provided by the subject-property's owner for the latter departure application. That omission has the consequence that the power of attorney and company resolution fall foul of the statutory requirements set out respectively in section 39(1)(b), and section of the By-law. To the extent that the applicant's planner persists in pursuing the application as currently framed, the failure by the property owner to provide the necessary power of attorney and company resolution for purposes of the departure pertaining to the maximum allowable floor space, the application is fatally defective on that aspect. It follows that the Municipality cannot approve the application for departure from the maximum of 5,000m² allowable floor space for all buildings on the land unit to permit a floor space of 17,8444 ha to accommodate intensive horticulture, as the delivery of that application to the Municipality has neither been authorised by a power of attorney from the owner of the subject-property to the applicant's planner, nor is it the subject of a properly formulated company resolution that complies with the peremptory requirements stipulated in section of the By-law.

Applicant's response

The reference to the departure in the power of attorney also includes other departures which may be required. This is due to a departure application whether it is from building lines or permissible floor space being submitted in terms of section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning At, 2015. The submitted application is therefore not paternally defective considering that the empowering section of the legislation is the same which nullifies the request by the objector that the application be refused on that ground.

Town Planner's comment

The objector's comment is noted. The applicant's comments are also noted, but to ensure that legalities regarding power of attorneys does not impact the application, the consultant was requested to obtain the necessary power of attorney.

An additional power of attorney was provided, which clearly address all the detail of the application (see Annexure N).

OBJECTION 19(b)

To the extent that the Municipality is minded to convene a meeting of the Municipal Planning Tribunal (or for that matter, when the matter serves before the Municipality's delegated official) we submit that the objectors are entitled to attend on that meeting and to deliver whatsoever oral representation may be necessary and relevant in the circumstances and in support of their representations.

Applicant's response

The request for a hearing will be to the discretion of the Overstrand Municipality.

Town Planner's comment

The request for a hearing is noted. The Municipal Planning Tribunal (MPT) provide objectors and applicants the opportunity to attend (or virtually in terms of Covid-19 regulations) the MPT meetings. The rules do not make provision for oral representation. The objector was however informed to consult directly with the Chairman of the MPT on such matter.

OBJECTION 19(c)

We submit that it behoves the Municipality to grant an audience to the objectors and the applicant when it considers its decision of first instance in order to ensure that the parties' rights to administrative action that is lawful, reasonable and procedurally fair is fully give effect to, given the facts and circumstances of the application. We look forward to hearing from the Municipality in this regard.

Applicant's response

The Overstrand Municipality has a good track record of good administration which is characterised by reasonable and fair procedure. The final decision will therefore be forwarded to the objector and will be granted an opportunity to object.

Town Planner's comment

The request for a hearing is noted. The Municipal Planning Tribunal (MPT) provide objectors and applicants the opportunity to attend (or virtually in terms of Covid-19 regulations) the MPT meetings. See the Town Planner's response in 19(b) above with regard to oral representation, and also further comments on this matter under "Desirability of the proposal".

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

See point 7 above.

9. MUNICIPAL ASSESSMENT OF COMMENTS (Town Planner's comment on objections/and response thereon)

See point 7 above.

Internal Departments

No objections

10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

10.1 Background

N/A

10.2 (In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The application is in line with the planning objectives applicable to this application.

The objectives relating to:

Spatial Justice

The development does provide work for seasonal and permanent workers, and therefore definitely provide opportunity to the different working classes in the area to economically improve their lifestyle.

Spatial sustainability

The land is already utilized for agriculture, and this will only ensure farmland is farmed more productively. The tunnels are also not proposed on environmentally sensitive land.

Efficiency

Putting up horticulture tunnels will produce more yield and is therefore a more efficient way to farm.

Spatial Resilience

The larger the production, the more markets can be targeted to ensure during economic downturn a wider clientele base have been created.

Good administration

Good procedure was followed and with a good public participation process. Notices were sent out twice and not during the Covid-19 lockdown period. All objections are being considered.

10.3 (In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

Same as Point 10.2 above.

10.4 (In)consistency with the IDP/Various levels of SDF's/Applicable policies

The SDF, 2020 indicates the area for agricultural purposes. The property falls within an agricultural resource area and is also situated close to a scenic corridor. In the SDF it is further recommended/development be informed by EA&DP's development guidelines.

The proposed expansion of the horticulture tunnels is considered in line with the policy. The property is situated close to a scenic corridor, but horticulture tunnels are part of the agricultural fabric, and that EA&DP Planning had no objection, it is interpreted that the application is in line with the aims of the policy.

10.5 (In)consistency with guidelines prepared by the Provincial Minister

It is the opinion that the proposal is in line with the Provincial Rural Guidelines, as the application was circulated to DEA&DP: Planning Branch, who is the relevant department dealing with the Guidelines. They indicated they had no objection against the application.

10.6 Impact on Municipal engineering services

No municipal services are provided.

10.7 Outcomes of investigations/applications i.t.o. other legislation

N/A

10.8 Existing and proposed zoning comparisons and considerations

The property is zoned Agriculture Zone I and will remain being zoned Agriculture Zone I. There are other farms in the Hemel-en-Aarde Valley where additional uses such as tourist facilities, wineries, etc. were approved, also horticulture tunnels.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

N/A

12. THE DESIRABILITY OF THE PROPOSAL

Portion 94 of farm Hemel-en-Aarde 587 is zoned Agriculture Zone I. Haygrove Heaven (Pty) Ltd also owns the farm on Portion 11 of Farm 587 and established a berry farm on the properties.

Portion 94 of Farm 587 measures 71,5045 ha. The farm is mostly utilized for berry farming, but there is also a pack shed, offices and other agricultural buildings on the property. At this stage there already have been 5,8727 ha of berry fields approved for horticulture tunnels. There are approximately 33,5240 ha berry fields, which the applicant now wants to apply to place horticulture tunnels on another 11,6737 ha.

The existing horticulture tunnels are at this stage on the southern and south-eastern part of the property.

The application then also includes the relaxation of the 30m building lines, and to relax the maximum 5000m² footprint for buildings allowed on a farm.

The application has been circulated to all relevant municipal and state departments and institutions, and no objections were received.

The application was advertised, and six (6) letters of objection were received. One (1) letter was from a representative of the De Werf Estate, next to Portion 94 of Farm 587, representing property owners in De Werf Estate and other surrounding property owners.

The objections were very substantial, and the applicant were also provided with an opportunity to respond to the objections. Most points were also discussed in detail by the municipal planner in this report.

Although most points were already discussed in this report, to properly apply our minds the most significant objections will again be discussed, to enable the determination of desirability of the application.

One (1) of the major concerns of the objectors is the scale of the development and its perceived impact on the surrounding area (character of the area).

It is to be noted that this farm and Portion 11 of Farm 587 is already farmed with berry farming, and that it is the property owners' right to utilize this agricultural land for farming. The property owner also obtained a consent use for intensive horticulture.

The property owner will only cover existing berry fields with horticulture tunnels. Farming activity will therefore not increase drastically, and should the horticulture tunnels increase yield and require additional staff at times, so would the maintenance of the open berry fields (or under netting), as more pesticides will be required and also removal of rotten fruits and plants due to heavy rains it is also labour intensive.

The concerns of the scale of the development appears to be more directed at the visual impact the horticulture tunnels will have and possible glare. The comments are noted that this is a scenic valley and a tourist destination. However, the area is firstly an agricultural area, and therefore berry farming is in line with the primary uses allowed in this area. The applicant then indicates that most of the berry fields are already covered with netting. The existing and new horticulture tunnels will all be covered with netting to reduce any glare. The fact is the property owner and objectors will both have their opinion with regard to what is "objectively viewed" in terms of this application. As indicated in this report, Western Cape Government: Environmental Affairs and Development Planning, Heritage Western Cape and the Municipal Environmental Management Department support this application, and not one of these departments requested a Visual Impact Assessment. The reason for this is that horticulture tunnels are an acceptable feature in the rural landscape, and Hemel-en-Aarde valley is first and foremost a farm area.

It is also to be noted that it is not a unique situation that complaints are received in agricultural areas about farming methods and practises. More and more people are creating tourist facilities or additional dwelling units in farm areas, and their expectations of what can happen in such areas differ from farmers who must work the land. An example is De Werf and Coch-y-Bundhu developments that was approved on agricultural land, just to the south of Portion 94 of Farm 587.

The concerns about impact on water resources, additional storm water being created, fire impact and traffic impact was discussed in this report. It is clear that all relevant municipal departments, BGCMA and DOT support the application, and therefore water resources, storm water and traffic impact are acceptable.

The applicant's comments regarding previous conditions of approval regarding water provision is noted. This matter can only be inspected by BGCMA, who is the authority on water rights. BGCMA however also indicated their support for this application, and it is therefore interpreted water rights are in place and sufficient.

The comments of the Municipal Fire Department were also obtained on the Fire Management Plan from the applicant, specifically due to the fact that application was also made to relax the 30m building lines adjacent to surrounding properties.

The Fire Department had no objection to the application and their comments are the Fire Management Plan submitted by the applicant can be considered to evaluate this application.

The other objections related to security and safety, pollution, health concerns, economic impact, environmental impact, heritage impact and was duly addressed in this report.

Ultimately the objectors are of the opinion that the proposal is out of line with the character of the area, will negatively impact tourism and will not have the positive economic impact the applicant claim it would have.

The objectors' viewpoint is it would lead to loss of right of enjoyment of surrounding property owners and loss in property value.

The fact is horticulture tunnels are part of the landscape of agricultural areas, and in future more such tunnels will appear as it helps increase production and food security, safe water and in the process requires less chemicals on crops.

It is therefore the opinion that the objectors are also looking after their own interests, and what they foresee a negative impact on their interests. The fact is that this is an agricultural area, and best practise is that farmland must be farmed more productively. It is not debatable the tunnels will be visual, but it is however part of the fabric of agricultural areas.

The objectors motivate that the application is not in line with the principle of spatial justice, spatial sustainability, efficiency, spatial resilience, and good administration.

The development principles in terms of SPLUMA was considered in detail with this application and the opinion are as follows regarding this application:

Spatial Justice

This application would ensure work opportunity to disadvantaged communities, but since this is not an application for new land development, other principles of spatial planning is not triggered.

The principle that an "MPT considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the grounds that the value of land or property is affected by the outcome of the application", is partially relevant.

Surrounding neighbours fear that the application would lead to an influx of more permanent and seasonal workers, and thereby impacting their environment and ultimately property value. The MPT must therefore carefully consider such objections, as the weight of these objections should not outweigh the opportunity it creates for jobs for disadvantaged communities.

Spatial Sustainability

The principle is to promote land development, ensure that special consideration is given to the protection of prime and unique agricultural land, uphold environmental land use management, promote, and stimulate the effective and equitable functioning and markets, consider all current and future costs to all parties for the provision of infrastructure and social services, limit urban sprawl and result in communities that are viable.

The objectors are of the opinion that not sufficient information was provided with the application to proof the application to be sustainable and is also concerned that the application's impact on the tourist industry would negatively impact this area.

From the information and comments from state and municipal departments it is safe to say that the application will not negatively impact agricultural land or sensitive environmental land. The additional yield will also provide additional produce for the markets.

The concerns regarding road infrastructure and traffic safety, use of water resources and storm water control are noted, but all relevant state and municipal departments who are specialists on these matters support the application.

Further, by creating job opportunities on agricultural land, close to urban centres, help with the economic upliftment of the community and help create viable communities.

Efficiency

This principle means the optimization of use of resources and infrastructure, better decision making to minimize negative financial, social, economic or environmental impacts, and streamlined decision making procedures.

This application is to use the land of the farm and existing infrastructure to its maximum capacity.

In decision making all factors should be considered, and with this application all relevant state departments and municipal departments comments were obtained to ensure the impact of this application is duly considered. It is acknowledged that there were challenges with regard to a streamlined process, but this was mainly due to the impact of Covid-19 lockdown and the fact that the Municipality had to ensure all other legislative requirements were complied with before taking a final decision on this application.

Principle of Good Administration

It means all spheres of government must be involved in land use planning, all government departments must provide input with regard to spatial development frameworks or any requirements of law, and a good public participation process must be followed.

It is clear from this report that all relevant comments were obtained from state/municipal departments in terms of requirements of law. The comments of DEA&DP: Planning was also obtained with regards to spatial development frameworks.

The comments of the objections that new information had to be provided due to the impact of Covid-19, and a new public participation had to take place is not supported. There are no special legislative requirements that requires this action, and the public participation process due to lockdown was advised by the Provincial Government, and therefore considered correct.

Principle of Spatial Resilience

Means a resilient system to deal with external shocks by way of innovative thinking.

The reason for this application is a typical example of spatial resilience. The berry farm lose yield due to parasites and rot due to heavy rain. By covering the berries with horticulture tunnels the fruit rot is stopped and less pesticides are required, and the other positive is the increase in yield. This will ensure that, considering climate change, the farmer will have less shocks and disturbances and can farm more productively.

A good public administration process was therefore followed with this application and the general principles in terms of SPLUMA and LUPA is complied with.

It is also the opinion that the aims in the SDF is to utilize this area for agricultural purposes and in line with the Western Cape Provincial Rural Guidelines. DEA&DP: Planning Branch supports this application, and therefore it is the opinion that there is compliance with these Guidelines.

The request that the site be visited before making a decision is noted and the planner who prepared the report visited the site to help consider the desirability of the application.

Special attention was given to the previously approved horticulture tunnels, and also if these tunnels were covered by non-reflecting netting.

It was established that the tunnels were covered with netting, but that it was difficult on-site to ground proof the precise correct location of all approved horticulture tunnels.

The Town Planner also wanted to scrutinize the building plans for the previously approved horticulture tunnels, but none was found at the Building Branch.

The applicant will therefore have to submit the required building plans to comply with the previous approval before any further horticulture tunnels may be erected. A special condition to such affect will have to be inserted into the recommendation.

The objectors also requested that objectors be afforded the opportunity to attend the MPT meeting and provide further representation. The objector was informed to consult with the MPT Chairman regarding his requests. It must be noted that on 27 July 2016 the Special Mayoral Committee approved the "Rules and Procedures for meetings held by the Municipal Planning Tribunal".

In terms of 4.1 in the procedure document the MPT meeting must be open to the public, except in so far as the MPT may in special cases otherwise direct that the meeting is closed due to matters of confidentiality.

It is also to be noted that in the report to the Special Mayoral Meeting on 27 July 2016, it stipulates: "The rules and procedures do not make provision for oral representation at this stage and allows for the planning Tribunal to consider a matter before taken only an written representation."

Considering all the information above, it is the opinion that the construction of additional horticulture tunnels is desirable.

The request for relaxation of building lines were scrutinized in terms of the Fire Management Plan submitted with the response on the objections. The following was established:

| BUILDING LINES – 30M | REQUESTED | FIRE PLAN / FIRE BREAKS |
|-----------------------------|------------------|--------------------------------|
| Eastern lateral | 3m | No breaks. |
| Southern lateral | 5m | 3m |
| Western lateral | 2m | 3m and 5m |
| Northern lateral | 12m | 5m |

It must be noted that the above information was in report format and is indicated as interpreted from the Fire Management Plan.

The relaxation of the eastern, southern, and northern lateral building lines can therefore be supported, but it is recommended that the western lateral building line only be relaxed up to 5m to comply with the FMP.

The 5000m² allowable floor space was to limit formal buildings on farms, and it is the interpretation it was never included into the Land Use Scheme to limit intensive horticulture tunnels, which are temporary structures. However, to comply with the definitions the applicant applied for this departure, which is supported.

13. RECOMMENDATION

1. that the application in terms of Section 16(2)(h) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 (By-Law) on Portion 94 of Farm 587 Hemel-en-Aarde Valley to amend conditions of approval in the letter dated 9 February 2016 to allow for the expansion of the horticulture tunnels from 5,827ha to 17,5464ha, **be approved** in terms of the provisions of Section 61 of the By-Law and that the condition now reads as follows:

“3.(a) that the placement of the intensive horticulture tunnels be in line and limited to the tunnels indicated on the Site Development Plan, submitted with the application, and an application will have to be made for any possible future tunnels”

2. that the applications in terms of Section 16(2)(b) in terms of the By-Law -

➤ for departures to relax the following:

- eastern lateral building line from 30m to 2m to accommodate the proposed intensive horticulture tunnels;
- southern lateral building line from 30m to 5m to accommodate the proposed intensive horticulture tunnels;
- western lateral building line from 30m to 2m to accommodate the proposed intensive horticulture tunnels;
- northern lateral building line from 30m to 12m to accommodate the proposed intensive horticulture tunnels; and

➤ departure from the maximum 5000m² allowable floor space for all buildings on the land unit to allow floor space of 17,8444 ha to accommodate additional intensive horticulture tunnels,

be partially approved in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:

- (a) that the building plans be submitted for the horticulture tunnels as approved on 9 February 2016, prior to the applicant may act on this approval;
- (b) that the western lateral building line only be relaxed to 5m, and that the Site Development Plan be amended accordingly;
- (c) that all the previous conditions of approval of 9 February 2016 and the new Site Development Plan (amended as in Point 1 above), be complied with;
- (d) that detailed building plans be submitted to the Building Department for approval;
- (e) that this approval does not absolve the applicant/owner from compliance with any relevant legislation;

- (f) that all the development parameters as prescribed in the By-Law Land Use Regulations be retained;
 - (g) that all the conditions imposed by Telkom (attached as Annexure K), be complied with;
 - (h) that all the conditions imposed by BGCMA (attached as Annexure L), be complied with;
 - (i) that all the conditions in the Services Report (attached as Annexure M), be complied with;
 - (j) that all the conditions imposed by Eskom (annexure as Annexure I), be complied with;
 - (k) that all the conditions by the Heritage Western Cape (attached as Annexure J), be complied with, and
 - (l) that non-reflective shade netting be placed over all new horticulture tunnels to limit glare.
3. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above decision.

14. REASONS FOR RECOMMENDATION

Reasons for support

- ❖ The new proposed horticulture tunnels are part of the fabric of agricultural areas, and the objections regarding visual impact and scale is not supported, as all relevant state en municipal departments being Heritage Western Cape, EA&DP: Planning Directorate, EA&DP: Environmental Branch and the Municipal Environmental Branch supports the applications.
- ❖ The berry fields are already covered with shade netting, therefore there will be a limited impact with shade netting over the horticulture tunnels, and existing trees on the farm will also help lessen visual impact and glare.
- ❖ The new proposed horticulture tunnels will help improve yield and would help reduce crop spraying.
- ❖ The concerns regarding additional water use, increase in storm water, traffic and possible fire safety does not proof the application to be undesirable, as the relevant municipal and state departments who specialise in these fields, being BGCMA, the Municipal Engineering- and Fire Department and DO support the application, and consider the impacts to be acceptable.
- ❖ The Hemel-en-Aarde Valley is an agricultural area with environmentally sensitive areas on the mountain side. Although this area is a tourist area, the main use is still agricultural; and therefore, application to improve agricultural productivity should receive priority. The comments regarding loss in property value, increased crime and loss of right of enjoyment of surrounding property owners is not supported, as the proposed activity fits in with the main function of the valley, being agricultural.
- ❖ The horticulture tunnels will increase food production.
- ❖ The application went through a good public participation process and additional information was not required due to the impact of Covid, therefore a good administration process was followed.

- ❖ The building line relaxations supported is due to the fact that it complies with the Fire Management Plan, and the fact that these berry fields are visually blocked by pine trees from the directly adjacent neighbours.

Reasons for non-support

- ❖ In terms of the Fire Management Plan the relevant western boundary line must have a 3 - 5 metre fire break. The relaxation of the western lateral building line to 2m could compromise fire safety.

15. ANNEXURES

| | |
|-------------|---|
| Annexure A: | Locality Plan |
| Annexure B: | Site Development Plan |
| Annexure C: | Motivation Report |
| Annexure D: | Objections received |
| Annexure E: | Applicant's response on objections received |
| Annexure F: | Comment: DEA&DP: Environmental |
| Annexure G: | Comment: DEA&DP: Planning |
| Annexure H: | Comment: Department of Agriculture: WC |
| Annexure I: | Comment: Eskom |
| Annexure J: | Comment: Heritage Western Cape |
| Annexure K: | Comment: Telkom |
| Annexure L: | Comment: BGCMA |
| Annexure M: | Services Report |
| Annexure N: | New Power of Attorney |
| Annexure O: | Comment: Fire Department |
| Annexure P: | Additional comment: Fire Department |
| Annexure Q: | Additional comment: Engineering Services |
| Annexure R: | Comment: Department of Transport |

SIGNATURE

AUTHOR:

Name: **H OLIVIER**

SACPLAN Reg No: **B/8128/2004**

Signature: _____

Date: _____

REGISTERED PLANNER

Name: **H VAN DER STOEP**

SACPLAN Reg No: **A/1708/2013**

Signature: _____

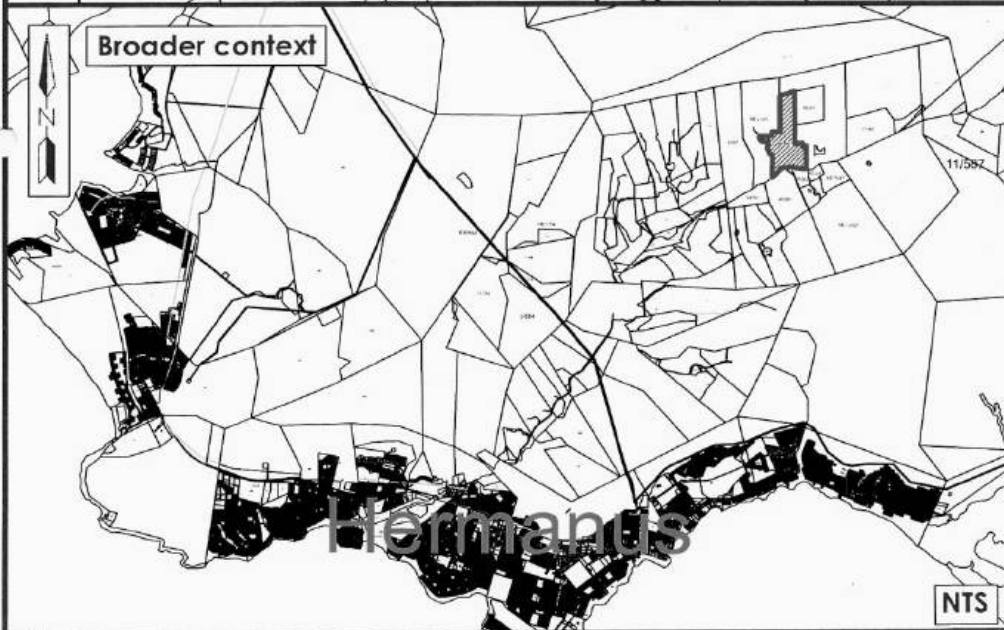
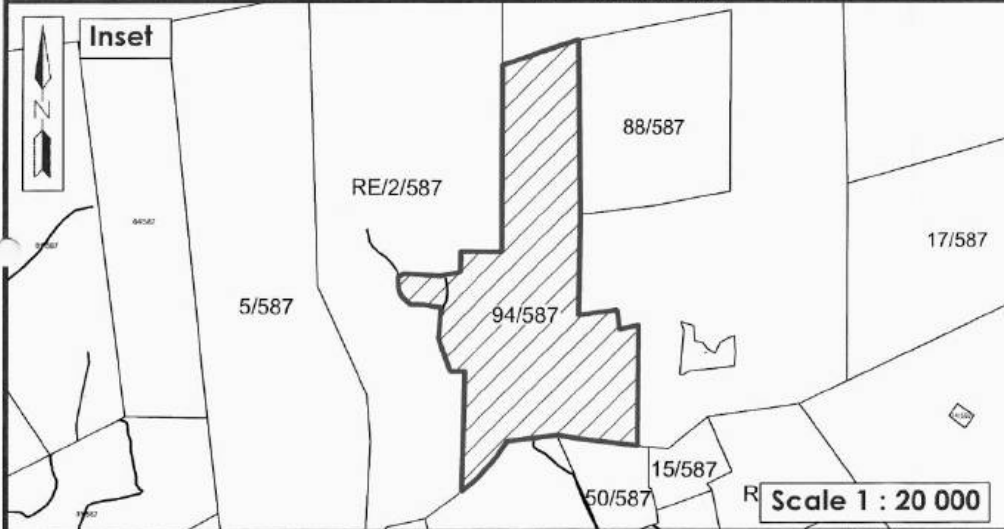
Date: _____

Annexure A 1/2

Plan 1: Locality Plan Portion 94 of the Farm Hemel en Aarde 587 Caledon

 Portion 94 of the Farm Hemel en Aarde 587 Caledon (71,5045 ha)

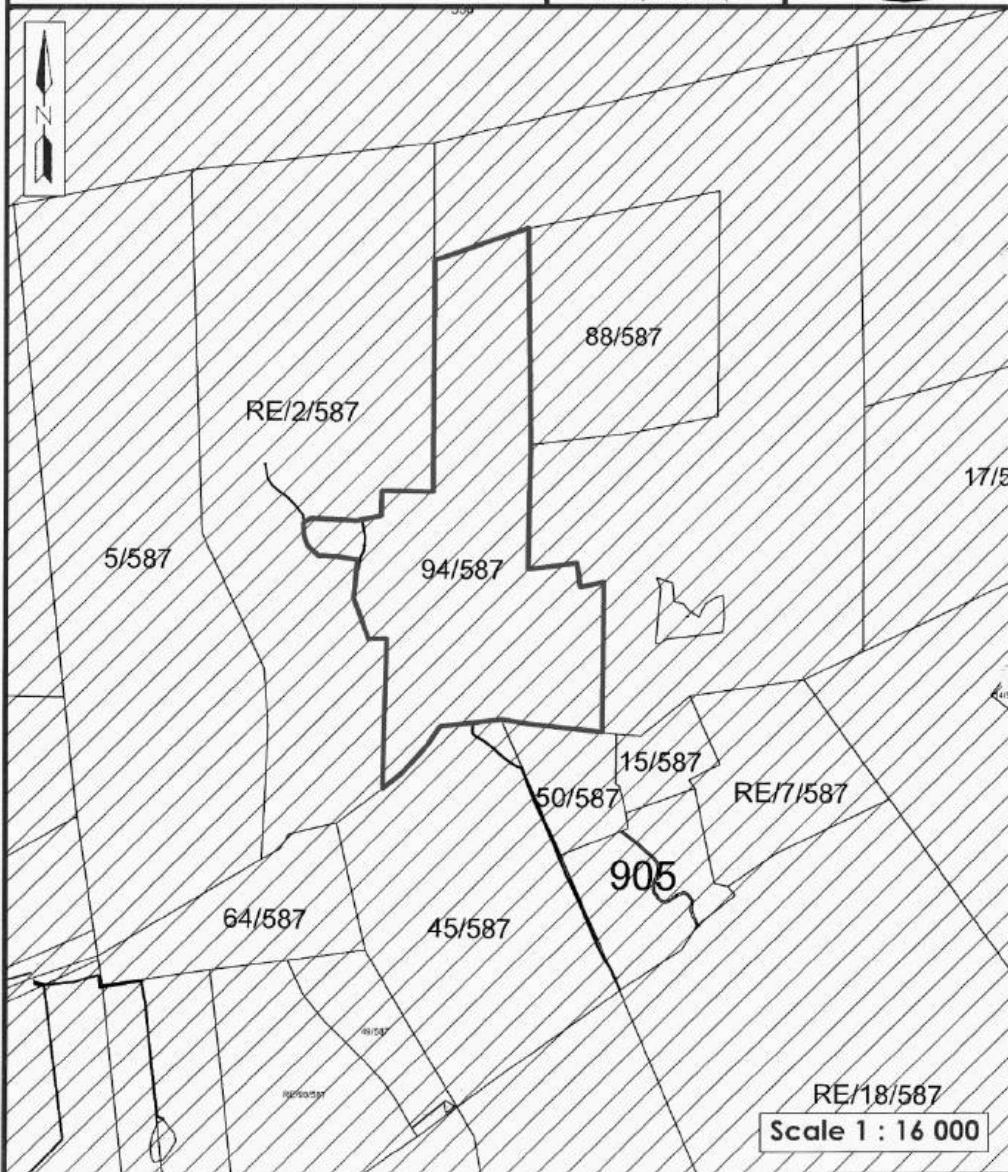
Tel: 078 313 1411
Email: admin@wrapgroup.co.za
Plan prepared in July 2019
File number 18/033
35 Duiker Street, Hermanus, 7200
Plan prepared by: Reatlehe Jankie
All distances are approximate
and subject to a survey



Plan 2: Zoning Plan Portion 94 of the Farm Hemel en Aarde 587 Caledon

-  Portion 94 of the Farm Hemel en Aarde 587 Caledon (71,5045 ha)
-  Agriculture Zone 1: Agriculture

Tel: 028 313 1411
 Email: admin@wrapgroup.co.za
 Plan prepared in July 2019
 File number 18/033
 35 Duker Street, Hermanus, 7200
 Plan prepared by: Reatlehe Jankie
 All distances are approximate
 and subject to a survey





4. FARMERS INTENT

4.1 Current agricultural activities

The subject farm operates under the name Haygrove and grows strawberries, cherries and fruits in an organic matter. The urban clientele of the commercial agricultural enterprise is local and international. The rationale behind Haygrove opting for intensive agriculture has been to increase yield, increase the quality of agricultural output, and enable innovative crop protection (refer to pictures attached as **Plan 6**).

4.2 Background and farmers intent

There is a letter of approval for intensive horticulture and a building line departure on the subject property (refer **Annexure D**). The letter of approval highlights that the intensive horticulture be restricted to the size and scale which was depicted on the SDP. Considering that the agricultural demand on the subject property outweighs that which can be supplied by the property owner, the permissible footprint of the intensive horticulture is proposed to be increased.

5. CONTENTS OF THE LETTER OF APPROVAL

WRAP submitted an application to the OM which was approved and contains the following conditions of approval relevant to this application (refer **Annexure D**).

"1. that in terms of Clause 2.2 of the Overstrand Municipality Zoning Scheme Regulations the application for a consent use on Remainder Portion 94 of Farm Hemel en Aarde No.587 to accommodate intensive horticulture (tunnels) on the property **be approved**;

2. that in terms of Section 15 of LUPO the application for departure to relax the western lateral building line from 30m to 10m and the 30m eastern building line to 3m to accommodate portions of the tunnels, be approved;

3. That 1 and 2 above be approved subject to the following conditions:

- (a) That the placement of the intensive horticulture tunnels be in line and limited to the tunnels indicated on the Site Development Plan 14/073/01 submitted with the application and; and application will have to be made for any possible future tunnels;
- (b) That detailed building plans be submitted to the Building Department for approval;
- (c) That this approval does not absolve the applicant/owner from compliance with any other relevant legislation;
- (d) That all the other development parameters as prescribed in the Zoning Scheme Regulations be retained; ..."

The approved consent use for intensive horticulture with measuring 5,8727ha already exists on the subject property. The property owner however wants to increase the permissible square meterage area from 5,8727ha to 17,5464ha to respond to the demand for the agricultural produce of the subject property. This would require condition of approval 3. (a) to be amended.

The OMZS defines intensive horticulture as follow;



EXECUTIVE SUMMARY

"intensive horticulture means the cultivation of plants and indigenous flora on intensive scale, where plants are cultured under a roof or open land, or in green houses, and includes the sale of self produces plants from the land."

The existing and proposed horticultural tunnels which produce the fruits elucidated in Section 4.1 of this motivation report are in harmony with the definition above (refer to photos attached as **Plan 6**).

6. APPLICATION

For the owner of the subject property to be conferred with the appropriate land use rights, the following is applied for.

6.1 Amendment of condition of approval 3 (a) contained in letter of approval dated 9 February 2016 to allow the proposed expansions of the tunnels from an area which measures 5,8727ha to one that measures 17,5464ha in terms of Section 16(2)(h) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015.

The owner of the subject property opted to convert some of the agricultural land uses on the subject property to intensive horticulture because the following benefits were evident.

- 6.1.1 Intensive horticulture is more profitable per square meter compared to traditional agriculture;
- 6.1.2 Intensive horticulture has higher crop output per square meters compared to traditional agriculture;
- 6.1.3 Intensive horticulture tunnels utilise less resources compared to traditional agriculture which make it more efficient; and
- 6.1.4 Intensive horticulture enables a farmer to plant a wider variety of crops which would not be possible if the soil and weather conditions were not ideal.

The approval of this proposal will therefore enable the owner of the subject property to capitalise on the benefits which can be derived from intensive agriculture which are highlighted above.

The agricultural enterprise on the subject property has grown exponentially, beyond the initial projections of the property owner and has resulted in demand outstripping supply. This application therefore entails conferring the most appropriate land use rights for the intensive horticulture expansions which the property owner seeks. This proposal and other similar ones which have been submitted also indicates that there is a trend taking hold among farmers in the OM who are increasingly opting for intensive horticulture to meet demand. This trend is positive as it maximises agricultural output on farms and contribute to the food security of the region and country. This also contributes to SA being an exporter of agricultural produce. The approval and implementation of this proposal would also enable the subject farm to derive a higher income and respond to the increased demand for agricultural produce.

6.2 Departure from the 30m eastern side building line to 3m to accommodate the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015;



3/10

EXECUTIVE SUMMARY

- 6.3 Departure** from the 30m southern side building line to 5m to accommodate the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015;
- 6.4 Departure** from the western 30m building line to 2m to accommodate the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015;
- 6.5 Departure** from the northern 30m building line to 12m to accommodate the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015; and
- 6.6 Departure** from the maximum 5000m² cap for all buildings on the subject property to permit the existing and proposed intensive horticultural expansion to be 17,8444ha in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015.

The subject farm has a mountain, wetland and critical biodiversity area which collectively constitute approximately 35% of the land mass and reduces land available for the expansion of intensive horticulture tunnels. The proposed expansions are not occurring on any environmentally sensitive land (refer **Plan 5**). The proposed horticulture tunnels will not accommodate any animals and will minimise the likelihood of neighbouring property owners being subjected to noise emitted by animals. The crops on the subject site also do not emit offensive smells and fumes and are not projected to negatively impact on neighbouring property owners when located over the building lines. Farm workers will occasionally work in the tunnels for a short time which will reduce the likelihood of noise impact on neighbouring property owners. The approval of the expansion of the intensive horticulture over the building lines will therefore not interfere rights which adjacent property owners enjoy in the occupation of their properties.

7. IMPACT OF OUTCOME OF THIS APPROVAL

The impact and outcome of this approval will not in any way alter the agricultural land uses on the subject property but will increase the agricultural output. Considering that the neighboring Portion 11 of Farm Hemel en Aarde 587 Caledon 587 also has intensive horticulture tunnels, the approval and implementation of this proposal is in harmony with neighboring land uses. The neighboring farmers have become accustomed the tunnels on the subject property and the neighboring farm. This proposed expansion will therefore not come as a surprise or upset the rural visual landscape which farmers have become accustomed to.

File 19/47
Portion 94 of Farm Hemel en Aarde 587 Caledon
August 2019



4/10
MOTIVATION

8. RURAL ENVIRONMENT

The rural environment of the Hemel en Aarde is predominantly agricultural with some intensive agriculture and horticulture. There are also subservient tourism related land uses on some farms. The approval and implementation of this proposal is in synchrony with the rural environment which is valued by the residents.

9. TITLE DEED

Title deed T97282/2007 was perused and there are no restrictive title deed conditions which prohibit the subject proposal.

10. ZONING

The compliance or deviation of this proposal from the Agriculture Zone 1: Agriculture zoning will herewith be assessed and is a relevant consideration in terms of Section 66 (1) (a) of the OM By-Law.

| Agriculture Zone 1: Agriculture | | | |
|---------------------------------|--|--|-----------------------|
| | Parameters | Proposal | Deviate or comply |
| (a) Primary use | agriculture, dwelling house, day care centre, guest rooms, home occupation; | Agriculture | Comply |
| (b) Consent use | additional dwelling units, agricultural industry, animal care centre, aquaculture, crèche, farm shop/stall, guest house, hotel, institution, intensive animal farming, intensive horticulture , mining, place of assembly, place of entertainment, place of instruction, plant nursery, riding stables, rooftop base station, service trade, tourist accommodation, tourist facilities, transmission tower, utility services, wellness centre, 4 x 4 trail. | Intensive horticulture (tunnels) expansion | Application motivated |
| Development rules | | | |
| Floor space | The total floor space of all buildings on the land unit, may not exceed 5 000m ² ; provided that Council may relax this requirement if it is satisfied that such buildings are required for genuine farming activities on the land unit. | 17,5464ha | Departure motivated |
| Building lines | Street and common boundary building lines are all 30m | Departure from the 30m eastern side building line to 3m to accommodate the proposed intensive horticulture tunnels; | Departure motivated |

File 19/47
Portion 94 of Farm Hemel en Aarde 587 Caledon
August 2019



MOTIVATION

| | | | |
|----------------|--|--|--------|
| | | <p>Departure from the 30m southern side building line to 5m to accommodate the proposed intensive horticulture tunnels;</p> <p>Departure from the western 30m building line to 2m to accommodate the proposed intensive horticulture tunnels; and</p> <p>Departure from the northern 30m building line to 12m to accommodate the proposed intensive horticulture tunnels.</p> | |
| Height | <p>(i) The maximum height of a building, measured from the base level to the top of the roof is 8,0 m, provided that;</p> <p>(ii) Agricultural buildings other than dwelling units shall not exceed a height of 12,0 m measured from the base level to the top of the roof; and where Council is satisfied that a greater height is necessary for the agricultural function of the building, it may permit such greater height; and</p> <p>(iii) Earth banks and retaining structures shall comply with 16.6, provided that earth banks and retaining structures, which in the opinion of Council are associated with the bona fide agricultural activities, are exempt from the requirements of 16.6.</p> | <p>(i) Buildings which are not related to agriculture are not higher than 8m;</p> <p>(ii) The existing and proposed intensive horticulture building do not and will not exceed the 12m height restriction;</p> <p>(iii) Comply</p> | Comply |
| Parking | <p>Parking and access shall be provided on the land unit in accordance with 17.1.</p> <p>Office 6 bays per 100m² GLA</p> <p>Storage 2 bays per 100m² GLA</p> <p>Loading bays</p> | <p>The office is 587m² and require 35,36 parking bays;</p> <p>Storage/pack shed is 1114m² and requires 22,28 parking bays. There are 58 parking bays required and 62 parking bays are provided.</p> | Comply |



6/10

MOTIVATION

| | | | |
|--|---|--|--|
| | 1 bay per 500m ² for the first 1 000 m ² of GLA, thereafter 1 bay per 1 000 m ² . There are no parking requirements for intensive horticulture tunnels. | The GLA is 1701 m ² and there are 4 loading bays required which are provided. | |
|--|---|--|--|

11. SERVICES

The availability of services to guarantee the functionality of the proposed intensive horticulture expansion will herewith be illustrated.

11.1 Water

There are historic water rights which exist on the subject property. The proposed tunnel expansion is aligned with the existing water rights capacity. The existing agricultural fields will be converted to intensive horticulture and there will be no expansion of the existing agricultural fields. This will ensure that the extraction of water does not exceed existing capacities.

11.2 Sewage

"Boland Toilet" provides toilets and pumping services for the agricultural fields and tunnels. The same services will be used to cater to the proposed horticulture tunnels. The sewage services have been installed in accordance with the prescripts of audits which have been done on the property and the capacity thereof can be regarded as sufficient.

The packhouse and offices have tanks which get emptied by the Overstrand Municipality.

11.3 Electricity

The subject farm gains electricity connection to Eskom which the approval and implementation of this proposal will not alter.

11.4 Access

Access to the subject property is currently gained from Minor Road number OP04012 from km marker 0,991. The approval and implementation of this proposal will not alter this.

12. NEED AND DESIRABILITY

The need and desirability of the approval and implementation of this proposal will be illustrated in accordance with Section 66 (1) (c) of the OM By-Law.

12.1 Compatibility with surrounding land uses

Most of the farms in the Hemel en Aarde are agriculturally productive with some intensive horticulture. The adjacent Portion 11 of Farm Hemel en Aarde 587 Caledon also belongs to Haygrove Heaven (Pty) Ltd and has intensive horticulture which makes this proposal compatible with surrounding land uses.

12.2 Impact on views, sunlight and character of the area

The proposed horticulture tunnels will not exceed the permissible 12m height restriction for agricultural buildings which all farmers in the OM enjoy. The tunnels will therefore not be visually imposing. The visual colour diversity which the approval and implementation of this proposal will

File 19/47
Portion 94 of Farm Hemel en Aarde 587 Caledon
August 2019



7/10

MOTIVATION

bring about in the Hemel en Aarde is desirable and is one of the draw cards which attract tourists to the area.

12.3 Economic impact

Intensive horticulture is more labour-intensive in comparison to other agricultural land uses, and the approval and implementation of this proposal will substantially increase the number of people employed on the subject farm. This will therefore lead to the reduction of poverty which is a positive economic impact.

12.4 Need

The population growth of SA and other countries coupled with pressure for agricultural land to be converted to non-agricultural land uses puts pressure on farmers to increase agricultural yield/output per square meter. Intensive horticulture is a mechanism which farmers apply to respond to the increasing demand for additional agricultural supply. There is therefore a definite need for the OM to approve this application so that the owner of the subject property can contribute to increasing and enhancing food security.

12.5 Impact on heritage

None of the provisions in the National Heritage Resources Act, 1999 are triggered by this proposal.

12.6 Environmental impact

No listed activities in terms of the National Environmental Management Act are triggered by this proposal. The proposed horticulture expansion areas do not encroach on any environmentally sensitive parts of the subject farm.

13. SPLUMA MOTIVATION REQUIREMENTS

This application is motivated in terms of the requirements of SPLUMA which is a relevant consideration in terms of Section 42 (c).

13.1 Public interest

The approval and implementation of this proposal will lead to the visual enhancement of the subject site which is in the public interest and additional taxes will be collected by SARS. The taxes which will be collected by SARS will be used for service delivery which is in the public interest.

13.2 Constitutional transformation imperatives of the state

The constitutional transformation imperative of the state includes enabling farmers to flourish economically and share the proceeds with workers with the intent of improving the access to opportunities for rural residents. The approval and implementation of this proposal will therefore enable the owner of the subject property to implement the constitutional transformation imperatives of the state.

13.3 Facts and circumstances pertaining to the application

Intensive horticulture has historically been approved on the subject property and signals that the OM considered the originally submitted proposal to be desirable. This proposal is not intended to alter the desirable intensive horticulture land use right which is applicable on the subject property but is only intended to expand the footprint.

File 19/47
Portion 94 of Farm Hemel en Aarde 587 Caledon
August 2019



13.4 Respective rights and obligations of all those affected

The proposed expansion of the intensive horticulture tunnels is not projected to interfere with the community's health, wellbeing and comfort in the occupation of their land. The land use right enjoyed by neighbouring property owners will therefore not be infringed upon.

14. SPATIAL PLANNING POLICIES

The consistency of this proposal with all relevant spatial planning policies was investigated. This is a relevant consideration in terms of Section 66 (1) (h), (i) (u) (k) and (l) of the OM By-Law:

14.1 WCLPGRA

The policy promotes appropriate growth of the rural economy in appropriate locations. Policy proposals in the WCLPGRA pertinent to this proposal are recorded as below:

14.1.1 Improve the economic viability of farms through the intensification

Intensification on farms is achieved by increasing capital investment and labour to raise yield/output. The purpose of this application is for the property owner to be conferred the most appropriate land use rights to implement agricultural intensification as prescribed by the WCLPGRA.

14.1.2 Restrict the fragmentation of agricultural landscapes

Agricultural fragmentation is when farms are subdivided into small units which reduces the agricultural viability of each unit. This proposal does not constitute agricultural fragmentation but is intended to enable the property owner to increase agricultural output which is in contrast with fragmentation and is encouraged in the WCLPGRA.

14.1.3 Development should reinforce farm precinct and reflect similar scale

The proposed tunnels will not exceed the 12m height restriction, are not visually imposing and are in synchrony with scale of similar structures on neighbouring farms.

14.2 PSDF

The aim of the PSDF is to communicate the governments sound spatial development intentions to the private sector and civil society. Policy proposal in the PSDF which are pertinent to this proposal are recorded below.

14.2.1 Prioritise rural development and investment in agriculture

This proposal is intended to prioritise rural development by increasing investment in agricultural activities on the subject property as prescribed by the PSDF. This will therefore promote inclusive economic growth in the Hemel en Aarde rural area.

14.2.2 Expand and diversify agriculture

The increased agricultural output which the approval and implementation of this proposal would bring about will enable the farm owner to have a wider range of fruits which can be planted and contribute to diversification of agricultural activities.

14.2.3 Capitalise on the comparative strengths of the Western Cape

The comparative strength of the Hemel en Aarde is the high agricultural output and performance of the rural area. This proposal is intended to capitalise on this comparative strength of the rural area.



9/10

MOTIVATION

14.3 SDF

The SDF identifies areas where growth and changes are projected and contains policy proposals which ensure that this occurs to the benefit of the inhabitants of the OM. Policy proposals in the SDF which are pertinent to this proposal are recorded below.

14.3.1 Develop and maintain a strong local economic base in rural areas

The Hemel en Aarde has a relatively strong economic base and the approval and implementation of this proposal would contribute to the strengthening of the economic base in the rural area.

14.3.2 Protect agricultural resource base

This proposal does not only protect the agricultural resource base but is intended to at least double the agricultural output on the subject farm as prescribed by the SDF.

14.3.3 Spatial proposal plan

The subject property is designated as a core agricultural area and the proposal for intensive horticulture is in harmony with this land use designation.

15. PLANNING PRINCIPLES

Chapter 2 of SPLUMA contains 5 uncompromisable planning principles which each development application must be guided by. Policy proposals in SPLUMA which are pertinent to this proposal are recorded below:

15.1 Spatial justice

Apartheid spatial planning entailed the concentration of economic activities in urban centres at the expense of neglecting rural residents. This proposal entails opening up economic opportunities in the Hemel en Aarde rural area to the benefit of rural residents. This will therefore contribute to combating spatial development imbalances caused by apartheid spatial planning.

15.2 Spatial sustainability

This proposal promotes enhancing the functionality of the rural space economy by ensuring that unemployed people can have a share of the income which will be derived on the subject property. This therefore promotes sustainable/inclusive rural development which is contextually appropriate.

15.3 Efficiency

Efficiency of rural areas entails higher agricultural output with minimal resource input. The proposed expansion of the intensive horticulture promotes efficiency at the output will be higher with low resource input.

15.4 Spatial resilience

The subject proposal is in harmony with the relevant spatial planning policies pertinent to the subject site which promote resilience. This will enable the approval and implementation of this proposal to be able to absorb environmental and economic shock in a timely and efficient manner.

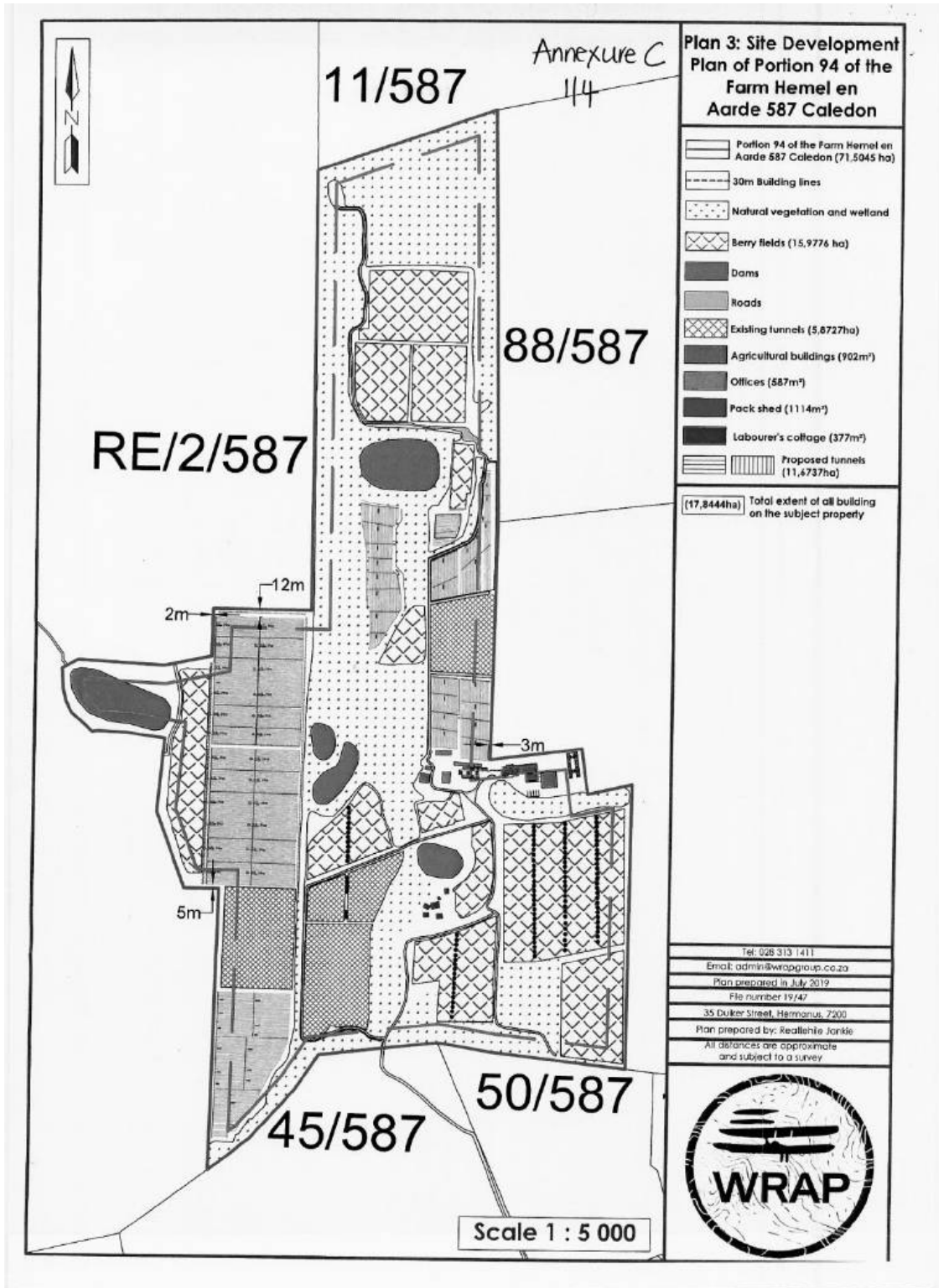
File 19/47
Portion 94 of Farm Hemel en Aarde 587 Caledon
August 2019



10/10

MOTIVATION**15.5 Good administration**

The OM has a credible track record of good administration regarding the method of public participation which accepts comments from the public to make an informed decision as well as complying with the prescribed time frames pertaining to the processing of applications.



Plan 4: Access Plan Portion 94 of the Farm Hemel en Aarde 587 Caledon

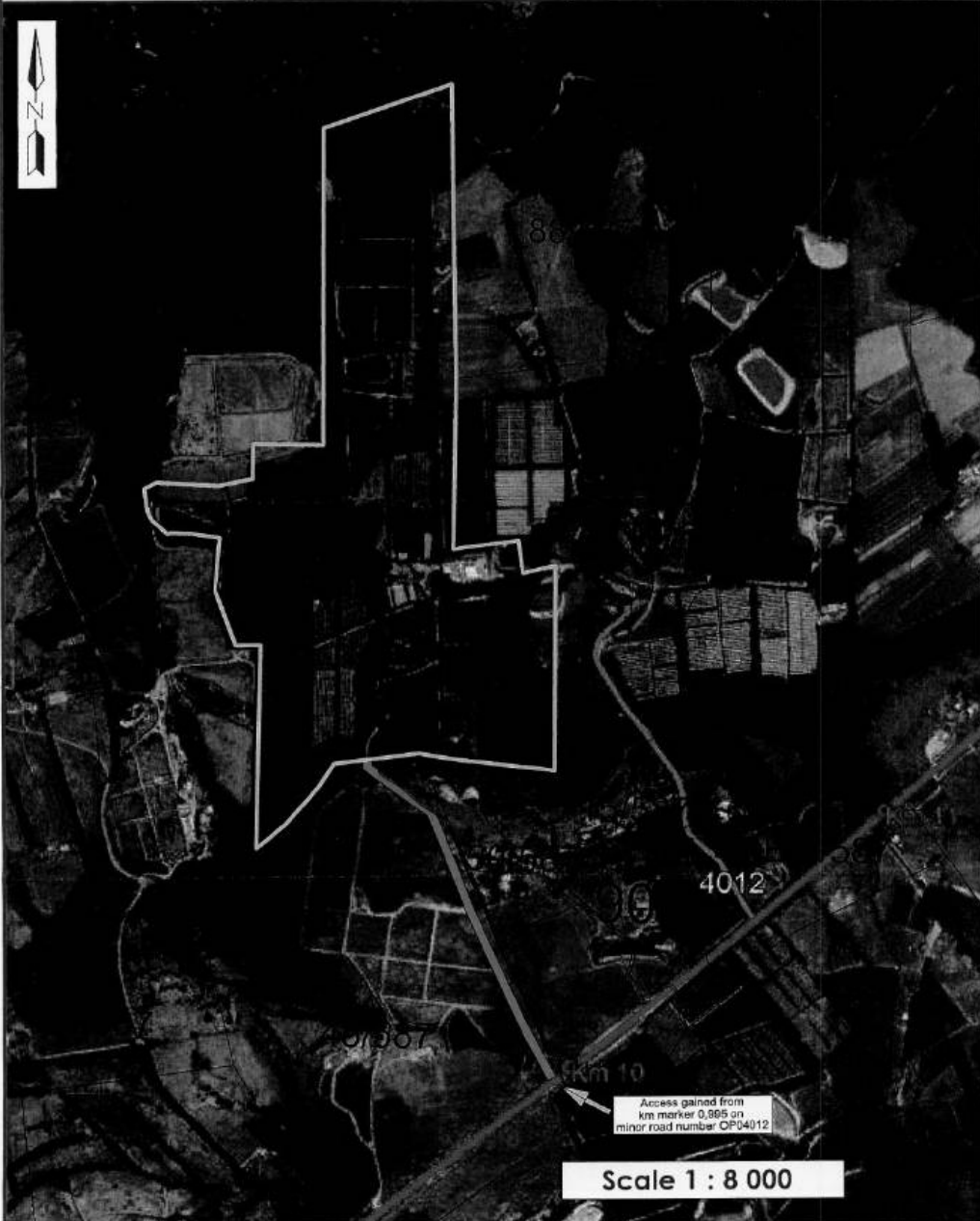
2/4



Portion 94 of the Farm Hemel en
Aarde 587 Caledon (71,5045 ha)

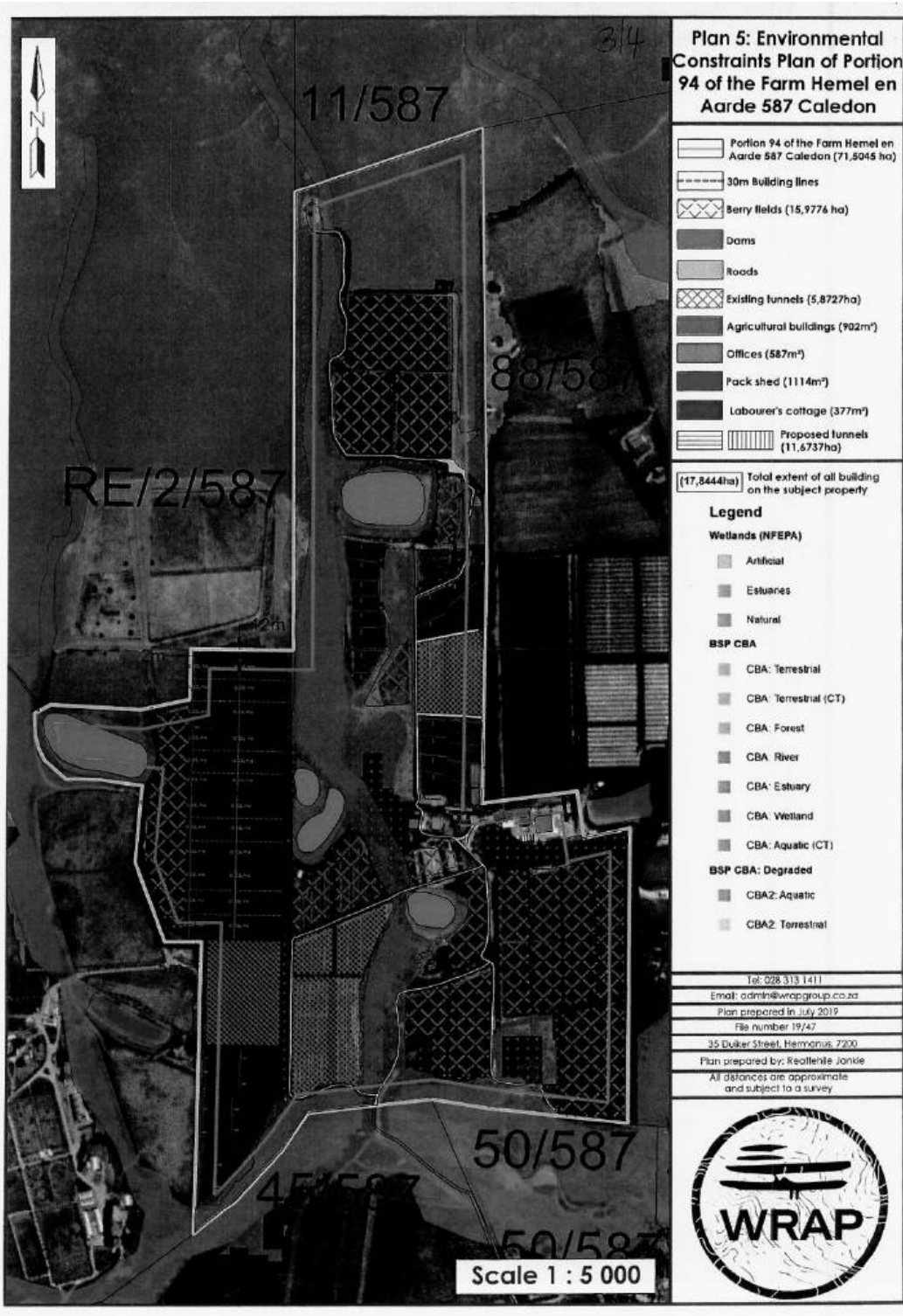
Main road number MR00249
Existing access road to the subject property

Tel: 028 313 1411
Email: admin@wrapgroup.co.za
Plan prepared in June 2019
File number 18/033
35 Duker Street, Hermanus, 7200
Plan prepared by: Reallehle Jankie
All distances are approximate
and subject to a survey



Access gained from
km marker 0,865 on
minor road number OP04012

Scale 1 : 8 000



Plan 5: Environmental Constraints Plan of Portion 94 of the Farm Hemel en Aarde 587 Caledon

- Portion 94 of the Farm Hemel en Aarde 587 Caledon (71,5045 ha)
- 30m Building lines
- Berry fields (15,9776 ha)
- Dams
- Roads
- Existing tunnels (5,8727ha)
- Agricultural buildings (902m²)
- Offices (587m²)
- Pack shed (1114m²)
- Labourer's cottage (377m²)
- Proposed tunnels (11,6737ha)

(17,8444ha) Total extent of all building on the subject property

Legend

Wetlands (NFEPA)

- Artificial
- Estuaries
- Natural

BSP CBA

- CBA: Terrestrial
- CBA: Terrestrial (CT)
- CBA: Forest
- CBA: River
- CBA: Estuary
- CBA: Wetland
- CBA: Aquatic (CT)

BSP CBA: Degraded

- CBA2: Aquatic
- CBA2: Terrestrial

Tel: 028 313 1411
 Email: admin@wrapgroup.co.za
 Plan prepared in July 2019
 File number 19/47
 35 Duiker Street, Hermanus, 7200
 Plan prepared by: Reallethe Jonkie
 All distances are approximate and subject to a survey

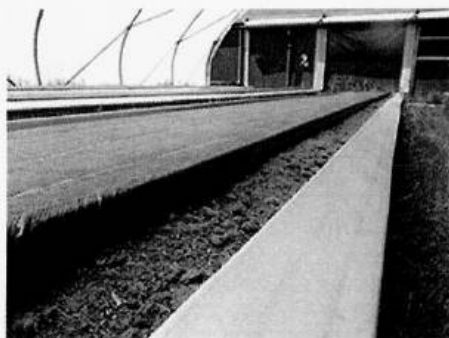


Scale 1 : 5 000

Plan 6: Photo Plan
Portion 94 of the Farm Hemel en Aarde 587 Caledon

4/4

Source:
<http://www.haygrove.co.za/polytunnel/>
Tel: 028 313 1411
Email: admin@wrapgroup.co.za
Plan prepared in July 2019
File number 18/033
35 Duker Street, Hermanus, 7200
Plan prepared by: Reallehle Jankie
All distances are approximate
and subject to a survey



Annexure D 1/49

DIANE FORSTER

UNIT 1 COCHYBONDHU, PORTION 50 OR FARM 587

30 July 2020

Overstrand Municipality
 Attention: Ms. Loreta Guillion
 16 Patterson Street
 Hermanus 7200

| |
|---------------------------------|
| FILE NO: FN 941687 |
| Mend & Mack |
| OWN NO: 06 |
| COLLABORATOR NO: 1437377 |
| |

OBJECTION AGAINST HAYGROVE EXPANSION PORTION 94

Dear Ms. Guillion

In confirmation of the facts set out in the objections delivered by Nicholas Smith Attorneys on behalf of the owners of the immovable properties that comprise De Werf and CochYBondhu (and in particular, regarding the wholesale lack of desirability of the application), ***I wish to bring the following summary to the Municipality's attention of how Haygrove expansion will impact on our individual property and lifestyle:***

A. NOISE & TRAFFIC

- a) Since moving here, we have already experienced Increased traffic, namely, heavy trucks, taxis, delivery vehicles and buses who most times speed downhill right next to our house starting as early as 5am. Even when not speeding, most hit the speed bump with force, waking us up and hooting once they reach the Haygrove gate
- b) There will be considerably more noise with two and a half times more vehicles, machinery, spraying (both ground and by helicopter) and people. We already hear machines and sprayers until 10pm
- c) Labourers often shout at each other across the tunnels, on Sundays (pre-covid, but I will start up again at Level 1), the Sunday service is exceptionally loud, carries on for a few hours at full shouting volume , not to mention the personal music from the Cottages that gets played at high volume at times. We hear it all as it's impossible to avoid. More buildings on the property will just increase these factors with more people around permanently

B. ODOUR EMISSIONS

- a) Sprayers run from early until 10pm, with double the expansion, this will be double the odour emissions and impact the fresh air. This is concerning as the sprays used are 'mostly' organic, which has potential longterm environmental and personal health impact on us .
- b) The said vehicles above all omit fumes coming down the road right next to our house which is the servitude to Haygrove

TP - 3 AUG 2020

C. VISUAL IMPACT & TOURISM

- a) With that vast increase in building coverage it is clear that this "farm" is actually the centre of operations for the surrounding farms that Haygrove also own. It is concerning that it will be more a factory than a farm.
- b) Haygrove is NOT in harmony with neighbouring land use. We are on the Southern Haygrove border with all our houses facing the Haygrove property. We developed our country lifestyle houses years before Haygrove
- c) The Hemel en Aarde Valley is an international tourist attraction with its outstanding beauty, award winning vineyards and restaurants, major cycling events and recreational activities all within reach from the world recognised "Whale Capital" of Hermanus.
- d) Haygrove Heaven is an eyesore on the landscape and the proposal WILL have an impact on the character and heritage of the area and potentially the value of our homes

E. SECURITY

- a) The Safety and Security on Farms in South Africa is becoming more and more alarming at a rapid rate
- b) We are already very vulnerable as our home borders Haygrove on both along the Servitude Road and Haygrove Southern Border, leaving us exposed to potential Farm attack or Robbery
- c) Haygrove employ migrant/casual workers who come down from other parts of the country in search of work and do not always return after the season ending
- d) The nature of Haygrove operation exposes us to many people that are not employed by Haygrove Operation. This expansion will only increase the risk of further potential danger to us.

Since moving here in 2018, we have already noticed an increase in the above points laid out. Although the Management at Haygrove have been accommodating when we have raised any of the above issues when they have become out of hand, please note that it is a major concern that this expansion will potentially become a difficult one to manage from a Neighbours point of view due to sheer scale of the business.

Sincerely yours,

Diane Forster



Diane Forster
Unit 1 CochYBondhu
Portion 50 of Farm 587
Hermanus
7200
0722272977
forster.diane@gmail.com

Annexure A:

List of owners of immovable property constituting the De Werf Body Corporate, Sectional Plan No SS266 92, situate at Portion 15 of the Farm Hemel-en-Aarde No. 587, Division Caledon

| | Name of owner | Immovable property details | Owner's representative | E-mail address |
|-----|------------------------------|----------------------------|------------------------|-----------------------------------|
| 1. | G P Grobler | Unit 1 | G P Grobler | gpgrob@iafrica.com |
| 2. | The Karee Trust | Unit 2 | A E van Riet | enslnvr@iafrica.com |
| 3. | N A Howarth | Unit 3 | N A Howarth | howarthholdings@icloud.com |
| 4. | De Werf Silo (Pty) Ltd | Unit 4 | K McManus | kevin.mcmanus@investec.co.za |
| 5. | M Y Guttler | Unit 5 | M Y Guttler | michelle.guttler@directaxis.co.za |
| 6. | Gamlan Investments (Pty) Ltd | Unit 7 | G Lanfranchi | giancarlo@swishproperties.co.za |
| 7. | J J Stadler | Unit 8 | J J Stadler | stadlera@iafrica.com |
| 8. | G T Field | Unit 9 | G T Field | topcap@iafrica.com |
| 9. | The Hancock Family Trust | Unit 10 | M Cloete | mamac@vianhoe.net |
| 10. | R C Bolus, A Bonthuys | Unit 11 | R C Bolus | bolusrobert@gmail.com |

List of objectors proximate to the subject-property

| | Name of owner | Immovable property details | Owner's representative | E-mail address |
|-----|--------------------------------|--|------------------------|-------------------------|
| 11. | Finglass (Pty) Ltd | Developable portions 5 and 7 in phases 2 and 3 of the residential development on Portion 15 of the Farm Hemel-en-Aarde No. 587, Division Caledon | Josh Kumpers | josh@fgroup.co.za |
| 12. | Hermanus Aberdeen 44 (Pty) Ltd | Farm 905, Caledon | Craig Wessels | craigw@wickedpixels.com |
| 13. | Mark and Diane Forster | Unit 1 Cochybondhu Estate | Diane Forster | forster.diane@gmail.com |

Page 2

| | | | | |
|-----|---------------------------------|--|----------------------|--------------------------|
| 14. | Richard & Sally O'Molony | Unit 2 Cochybondhu Estate | Richard O'Molony | rom@jaywalk.co.za |
| 15. | Chris & Sharon Thompson | Unit 3 Cochybondhu Estate | Christopher Thompson | basic@global.co.za |
| 16. | Ian Tingle and Cheryl du Sautoy | Unit 4 Cochybondhu Estate | Ian Tingle | ianadrantingle@gmail.com |
| 17. | James and Max Smith | Unit 5 Cochybondhu Estate | James Smith | jpsmith654@gmail.com |
| 18. | Peter Sham | Portion 45 Farm Hemel-en-Aarde 587 Caledon | Peter Sham | petersham@twk.co.za |

Navrae: Henk Olivier (Town Planner)
 Enquiries:
 Lêerwysing
 File Reference: RCAL 94/587
 Datum:
 Date: 25 June 2020



TOWN PLANNING / STADSBEPLANNING
 HERMANUS

Cochybondhu Homeowners Association
 Chairman
 Mr. C. Thompson
 E-mail : basic@global.co.za

Dear Sir

REQUEST FOR COMMENTS / OBJECTIONS / CONSENT

PORTION 94 OF FARM HEMEL AND AARDE NO. 587: APPLICATION FOR DEPARTURE AND AMENDMENT OF CONDITIONS OF APPROVAL : WRAP ON BEHALF OF HAYGROVE HEAVEN (PTY) LTD

1. The above application refers.
2. Your discussions with Mr Henk Olivier regarding notices to be served on all the property owners within the Cochybondhu development refer.
3. You are hereby requested to inform all the property owners within the development of Cochybondhu of the application. Attached please find the notice and annexures for circulation.
4. Kindly note that should consent be provided, a copy of the site development plan must also be signed.
5. Any written comments may be submitted in accordance with the provisions of Sections 51 and 52 of the said By-Law to the Municipality [(e) loretta@overstrand.gov.za] on or before **Friday, 31 July 2020.**

Yours faithfully

S MÜLLER
DIRECTOR : INFRASTRUCTURE AND PLANNING

Tel: 028 3138900
 Fax: 028 3132093
 E-mail: loretta@overstrand.gov.za

PO Box 20 / Postbus 20
 HERMANUS
 7200

6/49

Loretta Gillion - OBJECTION TO LAND USE APPLICATIONS: Portion 94 of the Farm Hemel & Aarde 587

From: diane forster <forster.diane@gmail.com>
To: <loretta@overstrand.gov.za>, <lpage@overstrand.gov.za>
Date: 30/07/2020 05:43 PM
Subject: OBJECTION TO LAND USE APPLICATIONS: Portion 94 of the Farm Hemel & Aarde 587
Cc: <magdaleenswart@overstrand.gov.za>
Attachments: Request for comments.pdf; Haygrove Objection.pdf; Annexure_A_objections_15112019.pdf

Dear Loretta,

Herewith please find my objection to Land Use Applications against Portion 94 of Farm Hemel & Aarde, over and above the objection already lodged against Portion 11, deadline 31 July 2020. I am listed on below attachment.

I would like to register my strongest objection possible to all the departures Haygrove is applying for. The reasons for this are detailed in the objections submitted to you by attorney Nic Smith and others in response to the first application by Haygrove. My objection letter attached details a summary of how this expansion would directly impact us as an individual neighbour and land owner to Haygrove. Please advise receipt and if any further documentation is required,

with thanks,

Diane Forster
 1 CochYBondhu
 Portion 50 of Farm 587
 Hemel en Aarde Valley
 Hermanus
 7200
 0722272977



NICHOLAS SMITH ATTORNEYS
ENVIRONMENTAL LAW SPECIALISTS



TP. A/hoort
(H-Olivier)

Overstrand Municipality
Attention: Ms. Loretta Gillion / Mr. Henk Olivier
16 Paterson Street
Hermanus
7200
By email: loretta@overstrand.gov.za; holivier@overstrand.gov.za

Our ref: NDS/sg/G33-001
FILE NO: LOCAL 94/587 FIN 94/587

| |
|-------------------------|
| Hemel & Aarde |
| SCAN NO: |
| stegs emielis bygestaan |
| COLLABORATOR NO: |
| 1436552 |

By fax: 028 313 2093

31 July 2020

Dear Ms. Gillion and Mr. Olivier

RE: PORTION 94 of FARM HEMEL-EN-AARDE NO. 587, OVERSTRAND MUNICIPAL AREA, A DIVISION OF CALEDON / OBJECTIONS TO APPLICATIONS FOR PERMANENT DEPARTURE; AND TO APPLICATION FOR AMENDMENT OF CONDITION OF MUNICIPAL APPROVAL GRANTED ON 9 FEBRUARY 2016

Introduction

1. We act for the owners of the immovable properties referred to in annexure "A" to these objections.
2. Our clients' properties are proximate to *Portion 94 of Farm Hemel-en-Aarde No. 587 Caledon* (which is referred to herein as "the subject-property"). As such, our clients are directly and adversely affected by the land use applications at issue in this matter.
3. This document constitutes our clients' substantive objections to the land use and planning applications delivered to Overstrand Municipality by Messrs. Wright Approach Consultancy ("WRAP") on behalf of the owner of the subject-property, Messrs. Haygrove Heaven (Pty) Ltd ("Haygrove").
4. The applications made by WRAP to which our clients object for the reasons set out herein are respectively for the following municipal land use approvals:
 - 4.1. An application for amendment of an existing condition of Municipal approval¹ to allow for the further and significant expansion, by some 11,6 hectares ("ha") (i.e. over

¹ Condition of approval 3(a) as set out in a record of decision by Overstrand Municipality dated 9 February 2016 and titled "*Portion 94 of the Farm Hemel-en-Aarde No. 587, Overstrand Municipal Area: Proposed consent use and departure: Messrs WRAP on behalf of Haygrove Heaven (Pty) Ltd*". The latter record of decision was signed by the

Nicholas Smith - BA (Hons) LLB ADL LLM (Marine & Environmental Law)

T: +27 (0) 21 424 5826 | F: +27 (0) 21 424 5825 | C: +27 (0) 82 375 0905
nicks@nsmithlaw.co.za | www.nsmithlaw.co.za | 2nd Floor, 114 Bree Street, Cape Town.

TP - 3 AUG 2020



- 116,000m²) of plastic-covered tunnels on the subject-property, for purposes of intensive horticulture;
- 4.2. four applications for permanent departure made in terms of section 16(2)(b) of the By-law and in respect of the significant proposed relaxation of the currently applicable lateral building lines on the subject-property's four boundaries²; and
 - 4.3. a permanent departure in terms of section 16(2)(b) of the By-law, from the maximum of 5,000m² allowable floor space for all buildings on the subject-property to allow a floor space of 17,5464ha in order to accommodate intensive horticulture.
 5. The essence of the application to which these objections relate is for the proposed expansion of the existing intensive horticulture tunnels on the subject-property, by the addition of further tunnels in what would amount to an almost threefold increase in the portion of the subject-property currently under tunnels. The majority of the proposed expanded operations would be within the area currently maintained as land that is not burdened by the presence of tunnels because of the applicable building lines. The proposed expanded operations would thus impact significantly and deleteriously upon the rights and interest of adjoining third party neighbours, particularly to the south of the subject-property. Those neighbours include our clients.
 6. The proposal to develop additional tunnels has the consequence that the surface area of the subject-property that is currently under intensive horticulture tunnels would be significantly expanded (from the currently permissible 5,8727ha, to a proposed total of 17,5464ha) if the applications are granted by the Municipality.
 7. Similarly, the proposed departure from the current maximum of 5,000m² allowable floor space for all buildings on the subject-property, in order to allow a floor space of 17,5464ha (over 175,000m²) "... to accommodate intensive horticulture" represents a very significant proposed physical expansion to the current farming infrastructure on the subject-property. For the reasons set out below, we submit that this outcome, objectively viewed, is undesirable. The applications should therefore be refused by the Municipality.

Synopsis of the application (in terms of section 16(2)(h) of the By-law) for the proposed amendment of condition of approval 3(a) in the Municipality's record of decision dated 9 February 2016

8. On 9 February 2016, the Municipality delivered its record of decision³ in response to an application for proposed consent use and departure that was delivered in March 2015 by WRAP on behalf of Haygrove.

Municipality's Director: Infrastructure and Planning. The amendment of condition 3(a) in that approval is now sought in terms of section 16(2)(h) of the Overstrand Municipality By-law on Municipal Land Use Planning, 2015 (the "By-law").

² The departure sought in respect of the eastern lateral building line is from 30 metres ("m") to 3m to accommodate the proposed intensive horticulture tunnels; the relaxation sought on the southern lateral building line is from 30m to 5m for the same purpose; the relaxation sought on the western lateral building line is from 30m to 2m to accommodate the intensive horticulture tunnels; and the relaxation sought on the northern lateral building line is from 30m to 12m, also to accommodate proposed intensive horticulture tunnels.

³ The Municipality's record of decision dated 9 February 2016 is appended to the current application, as part of Annexure D thereof.



9. In the latter record of decision the Municipality resolved to approve an application for a consent use on the subject-property in order to accommodate intensive horticulture (in the form of tunnels) on the subject-property.
10. The municipal approvals granted in 2016 were *inter alia* for two departures in terms of section 15 of the then applicable Land Use Planning Ordinance. Those departures were respectively to relax the western lateral building line from 30m to 10m, and the eastern building line to 3m to accommodate portions of the tunnels that were approved then.
11. The Municipality's written approval of the aforesaid departures was subject to nine conditions, the most material of which for present purposes, are framed as follows:

"3. *that Points 1 and 2 above [i.e. the approved relaxation of the western and eastern building lines] is (sic) subject to the following conditions:*

- (a) *that the placement of the intensive horticulture tunnels be in line and limited to the tunnels indicated on the Site Development Plan 14/073/01/P11 submitted with the application, and application will have to be made for any possible future tunnels;*
 - (b) *that detailed building plans be submitted to the Building Department for approval;*
 - (c) *that this approval does not absolve the applicant/owner from compliance with any other legislation;*
 - (d) *...;*
 - (e) *...;*
 - (f) *...;*
 - (g) *that all conditions in the Services Report (attached as Annexure I), be complied with;*
 - (h) *...; and*
 - (i) *that the tunnels either be of a non-reflective material or covered by non-reflective netting." (Our emphasis)*
12. It is the requirements of the condition at paragraph 3(a) of the Municipality's record of decision dated 9 February 2016 that necessitate the current application by WRAP on behalf of Haygrove. That condition must be supplanted in order to permit the more extensive and intrusive additional horticulture tunnels now proposed.

Synopsis of the departure applications

13. The first four departure applications sought by the applicant in terms of section 16(2)(b) of the By-law (i.e. permanent departures) would, if approved by the Municipality, allow for significant reductions in the current lateral building lines that apply on the subject-property. As regards the eastern lateral building line, the proposal is to seek a departure that would allow the relaxation of that building line from the currently permissible line (30m), to 3m. The subject-property's southern lateral building line is proposed to be relaxed from 30m to 5m. The western and northern lateral building lines are also proposed to be relaxed, respectively from 30m to 2m; and from 30m to 12m.
14. The departure application relating to the current permissible allowable floor space (a maximum of 5,000m² for all buildings on the subject-property) to allow a floor space of 17,5464ha provides a clear indication of the very significant extent of the proposed development activities that would follow on the grant of the application.



15. We refer to the applications described in paragraphs 12 to 14 above collectively herein as "the application".

The jurisdictional requirements in section 66 of the By-law (titled "General criteria for decision-making") and relating to the substantive merit of the application

16. A central substantive criterion for the Municipality's consideration of the applications pertains to "*the desirability of the proposed utilisation of land ...*".⁴ (Our emphasis).
17. We submit that desirability must be established by the municipal decision-maker on an objectively verifiable basis in order for an application to pass muster on its merits.
18. The applicant's planner purports to motivate the desirability of the application to which these objections relate with reference to six primary factors, which are recorded under the head "*Need and desirability*"⁵ in the applicant's motivation report.
19. The six motivating factors cited by the applicant, purportedly in support of the application on its merits, are the following:
- 19.1. Compatibility with surrounding land uses⁶;
 - 19.2. impact on views, sunlight and character of the area⁷;
 - 19.3. economic impacts⁸;
 - 19.4. need⁹;
 - 19.5. impact on heritage¹⁰; and
 - 19.6. environmental impact¹¹.
20. Our clients' rebuttal of the so-called motivating factors provided in WRAP's founding documents commences at paragraph 30 of these objections.

Point in limine

21. The application to which this objection relates was delivered to the Municipality by WRAP on 14 August 2019 (i.e. almost a year ago).

⁴ Section 66(1)(c) of the By-law.

⁵ Pages 15 to 16 of the motivation report delivered by WRAP and dated August 2019.

⁶ Paragraph 12.1 (page 15 of WRAP's application).

⁷ Paragraph 12.2 (page 15).

⁸ Paragraph 12.3 (page 16).

⁹ Paragraph 12.4 (page 16).

¹⁰ Paragraph 12.5 (page 16).

¹¹ Paragraph 12.6 (page 16).



22. The Municipality, through an unexplained oversight, neglected to circulate the application to the objectors we represent. The Municipality purported to correct that patent procedural error by belated notification to our clients dated 24 June 2020. The latter notification is attached to these objections, marked "B".
23. Paragraph 2 of the Municipality's notification of 24 June 2020 states as follows:
- "Registered notices were sent to all the potentially affected property owners on 20 January 2020. The closing date for comments/objections was 21 February 2020. Subsequent to the public participation process it came under our attention that the notice was not circulated to you. An opportunity to comment/object to the proposal is hereby given."* (Our emphasis.)
24. Paragraph 5 of the Municipality's notification entitles our clients now to deliver their written objections on or before Friday 31 July 2020. This document constitutes those objections.
25. We submit that the material circumstances pertaining to the application (first delivered by WRAP to the Municipality in August 2019 and on which our clients are now requested to provide their comments and objections) have changed materially in the past 11 months and in particular, in the last 6 months by virtue principally of the impact of the Covid-19 pandemic, and its massive negative impact to date on global and domestic economies.
26. We submit that the belatedly circulated application must be properly supplemented not only in respect of the materially changed circumstances since the application was first delivered to the Municipality, in mid-August 2019, but also in respect of full and detailed response to the objections set out in this document, and any other material objections received. The application, once appropriately supplemented, should commence afresh and be advertised accordingly for comments.
27. We submit that this is the only legally defensible approach that the Municipality can take in the circumstances, based on the Municipality's failings to date by the omission to ensure proper and timely notification of the application to objectors within a reasonable period of the Municipality's receipt of the application. Requesting comments on the application almost one year after it was lodged is legally indefensible because the vintage of the application means that it does not present a full and contemporaneous motivation on the merits. That has the result that the decision-maker cannot be in possession of all the facts relevant to the merits of decision.
28. The Municipality is specifically enjoined by the By-law to consider "*the procedure followed in processing the application*"¹² for purposes of exercising its decision-making functions in a manner that is constitutionally sound. In this instance, we submit that the procedure we have spelled out above should be followed in this instance, both because of the passage of time since WRAP delivered the application and because of the materially changed circumstances since then and in particular, since early March 2020 and the first documented arrival of the Covid-19 virus in South Africa.

¹² Section 66(f)(b).



Objections pertaining to the superficial description and treatment of water rights (and in particular, rights to abstraction from water resources; and storage)

29. The description of the proposed development's water-related impacts is superficial in the extreme. It does not put the municipal decision-maker in any position whatsoever to evaluate the impacts likely to be occasioned by water use. The application baldly states the following, under the head "Water"¹³:

"There are historic water rights which exist on the subject property. The proposed tunnel expansion is aligned with the existing water rights capacity. The existing agricultural fields will be converted to intensive horticulture and there will be no expansion of the exiting (sic) agricultural fields. This will ensure that the extraction of water does not exceed existing capacities."

30. No objectively verifiable proof of the propositions set out above is provided by WRAP or by Haygrove. We submit that the Municipality is entitled to such information in order to make a substantively rational (and therefore lawful) decision on whether the proposed water abstraction is not only "within existing capacities" as WRAP would have it, but also that those abstraction (and storage) capacities are properly authorised. This is particularly relevant to the applicant's compliance with the conditions in the Municipality's written approval dated 9 February 2016 (the first document included as part of annexure "D" to WRAP's application dated 12 August 2019), and in particular, condition 3(g) of the Municipality's approval read with annexure I to that approval.
31. We submit that the Municipality will have to satisfy itself as to Haygrove's compliance with the terms and conditions of the land use planning approval granted on 9 February 2016 (including its validity period) before Haygrove can legitimately expect the Municipality to consider the current application delivered by WRAP in August 2019.

Objections in response to the applicant's purported motivation regarding the application's compatibility with surrounding land uses

32. The first motivating factor described by the applicant's planner regarding the desirability of the application is the alleged compatibility of the application with surrounding land uses.¹⁴ The statement is made by WRAP that most of the farms in the Hemel en Aarde are agriculturally productive with some intensive horticulture.
33. We submit that this is a fallacious statement for at least two reasons: Firstly, it is not factually correct that most surrounding properties are used predominantly for agricultural purposes. Many of the surrounding properties (including our clients' properties) are principally used for residential purposes albeit in a rural setting. Our clients' immovable properties form part of a residential estate that was constituted under a body corporate many years before Haygrove commenced intensive agricultural production inter alia using horticulture tunnels. The second reason is that the suggestion that proposed horticulture tunnels (which will cover a total of over 17ha of the subject-property, if approved) can be said to be "in harmony" with the surrounding properties is a misleading overstatement. Whilst it may be correct to assert that the neighbouring Portion 11 of Farm Hemel-en-Aarde 587 also has intensive horticulture units, that

¹³ Paragraph 11.1 on page 15 of WRAP's application

¹⁴ Paragraph 12.1 (page 15 of WRAP's application).



property is also owned and operated by Haygrove. The applicant's self-interest is manifest. Beyond the latter property, various other landowners who reside on immovable properties that border the subject-property would in fact experience significant disharmony (in the form of an actionable impairment to their reasonable use and enjoyment of their properties) if they were to be burdened by the significant visual impacts that will be caused by the erection of more than 175,000m² of additional and very tall plastic-clad horticulture tunnels.

34. The applicant has also not placed a full and proper picture before the Municipality of the fundamental incompatibility (and therefore, the inherent lack of desirability) of the development proposal when considered against existing surrounding land uses. In support of this assertion, we point out that the applicant has provided no information to the Municipality regarding the significant likely increase in noise emissions on the subject-property if the expansion is to proceed, including noise generated by machinery; and by the transport used by the property owner to bus seasonal contract workers to the subject-property from Hermanus and its environs. There will also be a likely increase in the odours emitted from the property including emissions from crop spraying; vehicle use; and toilets for the seasonal contract workers (which have proved in the past to be entirely insufficient, as one of our clients' principal concerns relates to seasonal workers relieving themselves on surrounding properties with no regard to the accompanying health hazard). It should also be noted that our clients regularly find evidence of contract workers trespassing on their properties, including snares that have caught clients' domestic animals; and human waste as well as litter that is deposited on their properties.
35. Another significant concern from the perspective of residents' health is the impact of spraying the berries. Residents have complained of asthma, shortness of breath, and other respiratory impacts when spraying occurs. This is likely to be increased significantly if the current operations are expanded, as proposed.
36. The visual impact of permitting an almost threefold increase of plastic-covered tunnels and a significant departure to the permissible floor area are not described in sufficient particularity to place the Municipality in a position to make a properly informed and objective decision to approve the application.
37. It follows in our submission that the only decision that the Municipality can make on the facts and circumstances as presented and purportedly motivated by the applicant (and entirely rebutted in these objections) is to refuse the application on its merits.

Objections in response to the applicant's second motivating factor, regarding the (allegedly positive) impact on views, sunlight and the character of the area

38. The applicant's assertion that the proposal to develop intensive horticultural tunnels on an additional 11,6737ha of the subject-property "*will not be visually imposing*"¹⁵ is simply fallacious. WRAP is somewhat coy in describing the likely maximum height of the proposed tunnels, preferring instead to confirm that they will not exceed the permissible 12m height restriction. In the absence of a proper description of the specific height of the proposed tunnels, we must assume that they will be close to the maximum permissible height (if not at that height).

¹⁵ Paragraph 12.2 on page 15 of WRAP's application.



39. The further suggestion by the applicant that the *“visual colour diversity which the approval and implementation of this proposal will bring about in the Hemel en Aarde is desirable and is one of the draw cards which attract tourist to the area”* is also a wholesale fallacy. It only has to be stated to be rejected. The suggestion that visual diversity in the valley will be enhanced by the erection of plastic-covered tunnels and in turn, that this *“diversity”* will draw tourists to the area simply does not stand scrutiny as an objectively motivated criterion. It is, quite simply, preposterous.
40. To the extent that the applicant elects to pursue the application, we submit that the Municipality must oblige the applicant first to produce an appropriately detailed visual impact assessment by an appropriately qualified visual impact specialist before the properly supplemented application can proceed to the decision-making stage. The visual impact assessment should also be circulated with all parties with an interest in the matter (including the objectors we represent) so that they are afforded a proper opportunity to review that assessment and to provide their comments in that regard.

Objections in response to the applicant's purported motivation regarding economic impact

41. As regards the third factor described by WRAP in purported motivation of the application (alleged positive economic impact¹⁶) we point out on behalf of our clients that this has been motivated exclusively (albeit entirely superficially) from the applicant's perspective only.
42. In order to sustain an argument that there will be a positive economic impact, the applicant is obliged to provide more information than a mere bald statement to the effect that the approval and implementation of the application will substantially increase the number of people employed on the subject-farm, thereby reducing poverty in the area. Without the provision of specific and detailed information regarding (at the very least) the number of likely future employees; an indication of the wages that those prospective employees will earn, and all and any other relevant detail in support of the assertion that the applicant will contribute to the reduction of poverty, this so-called motivating factor cannot be sustained. There is no evidence to support it.
43. The substantive importance of our client's objection to the applicant's purported motivation of positive economic impact has been underscored by the economic impacts of the Covid-19 pandemic. The applicant will have to be much more candid with the Municipality regarding the current economic situation (in particular, job creation and retention) if the application is to have any reasonable prospect of success once supplemented, and re-advertised for public comment on the new and material information contained therein.

Objections in response to the applicant's purported motivation regarding need

44. As regards the fourth factor¹⁷ described by WRAP in purported motivation of the application, our clients take issue with the applicant-planner's statement that there is “...

¹⁶ Paragraph 12.3 (page 16 of WRAP's application).

¹⁷ Paragraph 12.4 (page 16 of WRAP's application).



therefore a definite need for the OM to approve this application so that the owner of the subject property can contribute to increasing and enhancing food security."

45. The fact of the matter is that the applicant produces premium soft fruit (berries) which are principally destined for the export market as a premium fruit product. To suggest that the Municipality approving the application will ensure the owner of the subject-property's contribution to increasing and enhancing food security is overstated.

Objections in response to the applicant's purported motivation regarding impact on heritage

46. As regards the fifth factor¹⁸ used in purported motivation of the application, the applicant's planner states (somewhat glibly, we submit) the following: "None of the provisions in the National Heritage Resources Act, 1999 are triggered by this proposal."
47. On behalf of the objectors, we contest this statement. We point out that section 38(1)(c) of the National Heritage Resources Act¹⁹ ("NHRA") obliges any person who intends to undertake a development categorised as any form of development or other activity which will change the character of a site exceeding 5,000m² in extent, at the earliest stages of initiating such a development, to notify Heritage Western Cape ("HWC"), and furnish HWC with details regarding the location, nature and extent of the proposed development. The only organ of state with the requisite statutory competence to decide whether the jurisdictional requirements of section 38 of the NHRA are triggered on the facts of this matter is HWC.
48. In support of our submissions regarding the likely application of section 38 of the NHRA, we point out that the subject-property is already occupied by intensive horticulture tunnels that cover over 5ha of that property. The current character of the subject-property is defined by a mixture of tunnels and open agricultural areas. That creates a tapestry of plastic-clad structures and vegetated areas. What the applicant now proposes is an artificial and monochromatic landscape and would present a jarring contradiction with the natural surrounds in this part of the Hemel-en-Aarde valley that will irrevocably change the character of the area. This is entirely clear from Plan 3 appended to the applicant's motivation, which clearly shows that the southern half of the subject-property will be effectively blanketed in plastic-covered horticulture tunnels which would extend almost to all of the subject-property's boundaries.
49. In our submission, and in the event that the physical expansion of tunnels is permitted by the Municipality (across an additional 11,6737ha of the subject-property) then that expansion would amount to a change in the character of the site. This is by virtue of the very significant increase (by almost two and a half times the physical extent of the existing tunnels) in the surface area that would be occupied by the proposed tunnels. The change in character is compounded by the fact that much of the proposed tunnel infrastructure would occur in the area formerly reserved as being outside the demarcated (30m) lateral building lines on the subject-property.

¹⁸ Paragraph 12.5 (page 16 of WRAP's application).

¹⁹ Act 25 of 1999.



50. No doubt the Municipality will now oblige the applicant to furnish written confirmation from HWC to confirm the applicant's assertion that no provisions in the NHRA are triggered on the facts of the applications.
51. A failure by the Municipality to oblige the applicant to comply with the requirements of section 38 of the NHRA before the Municipality considers the merits of the land use applications will constitute an appealable irregularity.

Objections in response to the applicant's purported motivation regarding environmental impact

52. The sixth criterion analysed by the applicant's planner, purportedly in motivation of the application is under the head "*Environmental Impact*"²⁰. The applicant's planner submits that no activities listed in terms of the National Environmental Management Act²¹ ("NEMA") are triggered by the development proposal. The applicant's submission is that the proposed intensive horticulture tunnel expansion is not located on the environmentally sensitive part of the subject-property (with reference by the applicant to a plan appended to the application as Plan 5).
53. On behalf of our clients, we submit that the purported motivation is both superficial and entirely misplaced. The correct enquiry that should have been made by the applicant's planner relates to whether the jurisdictional requirements of any of the listed activities respectively set out in the NEMA EIA Regulations' three Listing Notices²² are triggered on the facts of the application.
54. In the circumstances we submit that it behoved the applicant's planner to analyse the facts of the proposed intensive horticulture expansion and the receiving environment in the areas where the new tunnels are proposed in order to establish whether any NEMA-listed activities are triggered, and then to obtain written confirmation from the competent authority responsible for administering NEMA and the NEMA EIA Regulations²³ of the applicant's assertion that the expansion does not require environmental authorisation.
55. We have no doubt that the Municipality will ensure that the necessary enquiry is made to the provincial Department of Environmental Affairs and Development Planning (by the applicant, and at the behest of the Municipality before the latter can progress this application) in order to confirm unequivocally whether NEMA-listed activities are triggered on the facts of the proposed expansion. If NEMA-listed activities are triggered on the facts, then the applicant will be obliged to undertake the necessary environmental assessment procedures stipulated under NEMA read with the NEMA EIA Regulations, and to obtain environmental authorisation before the Municipality can decide the land use applications on their merits.

²⁰ Paragraph 12.6 (page 16 of WRAP's application).

²¹ Act 107 of 1998.

²² Published under NEMA respectively in GN R983 to GN R985 in *Government Gazette* 38282 of 4 December 2014 (as amended).

²³ Published in GN R982 in *Government Gazette* 38282 (titled "*National Environmental Management Act 107 of 1998 – Environmental Impact Assessment Regulations, 2014*").



The applicant's planner's baseless and misleading statements regarding impacts on neighbouring landowners

56. In support of our wholesale rebuttal (above) of the applicant's planner's purported motivation of the application against the applicable legal requirements in the By-law, we direct the Municipality to the planner's unsubstantiated and misleading statement in paragraph 7 of the motivation.²⁴ The applicant's planner says the following there:

"Considering that the neighbouring Portion 11 of Farm Hemel-en-Aarde 587 Caledon 587 (sic) also has intensive horticulture tunnels, the approval and implementation of this proposal is in harmony with neighbouring land uses. The neighbouring farmers have become accustomed the tunnels (sic) on the subject property and neighbouring farm. This proposed expansion will therefore not come as a surprise or upset the rural visual landscape which farmers have become accustomed to (sic)."

57. It is a patent falsehood for the applicant's planner to state that "neighbouring farmers" have become accustomed to the existing tunnels. The existing tunnels are an eyesore for the residents of the area, and for domestic and overseas tourists. The existing tunnels already have a significant visual impact which will be massively and unreasonably increased if further horticulture tunnels are permitted on the subject-property.
58. The applicant's planner's assertions that the proposed expansion will thus not be foreign to neighbouring property owners nor upset the rural visual landscape only have to be stated to be rejected.
59. In order for the Municipality to form the correct picture of the facts of the application (and for the other reasons that motivate in favour of a site visit, as set out below in paragraphs 98 to 101 of these objections) the Municipality's official/s responsible for producing the written assessment of the application in terms of section 57 of the By-law should visit the subject-property before finalising the obliged assessment.

The applicant's purported motivation against the jurisdictional requirements set out in the Spatial Planning and Land Use Management Act ("SPLUMA")

60. The applicant provides a purported motivation of the application against the requirements of SPLUMA, under four motivational factors.
61. Those factors are respectively the following:
- 61.1. The public interest;
- 61.2. the constitutional transformation imperative of the State;
- 61.3. the facts and circumstances pertaining to the application; and
- 61.4. the respective rights and obligations of all those affected.

²⁴ At page 12 of the application's motivation report delivered by WRAP.



Objections in response to the applicant's purported motivation regarding public interest

62. The applicant purports to conflate the alleged "visual enhancement" of the subject-property (which we have already shown to be an indefensible proposition); and growth of the taxable revenue base that would be achieved if the applications succeed. The suggestion is made that burdening the subject-property with an additional 11,67372ha under intensive horticulture tunnels is visually enhancing. This only has to be stated to be rejected. The suggestion that intensive horticulture tunnels covered in artificial material is an enhancement on the current *milieu* is entirely irrational, and is motivated only from the applicant's perspective.
63. Any benefit that might accrue to the State in respect of enhanced tax revenue from the landowner's expanded activities is entirely outweighed by the impacts that the proposed expansion would have on neighbouring landowners, including our clients.

Objections in response to the applicant's purported motivation regarding the State's constitutional transformation imperatives

64. Whilst it is correct that the State's transformation imperatives include enabling farmers to achieve economic growth and sharing the proceeds of that growth with their employees, the baldly stated and unsupported suggestion that this will occur on the facts of this matter must be rejected by the Municipality because the statement is supported by no objectively verifiable evidence.
65. The applicant provides no detail whatsoever as to the quantification of the economic proceeds to be shared with workers on the subject-property (who are engaged as seasonally used independent contractors by the landowner, rather than formally employed). As we understand the current situation, and the impacts of the Covid-19 pandemic, the applicant has in fact retrenched or otherwise laid off a significant proportion of its workforce.
66. We submit that this is yet another aspect on which the applicant must substantially supplement its application, with particular attention to the changes in its business since March 2020 in light of the adverse impacts caused by the Covid-19 pandemic.

Objections in response to the applicant's purported motivation regarding the historic facts and circumstances pertaining to the application

67. Whilst it is correct that the Municipality approved intensive horticulture on the subject-property in its record of decision dated 9 February 2016²⁵ there can be no suggestion that the aforesaid approval in any way indicates the Municipality's view regarding the desirability of the current application. In fact, the opposite: the Municipality prescribed a condition that explicitly limits the placement and scale of horticulture tunnels (condition 3(a) in the Municipality's record of decision dated 9 February 2016). The Municipality therefore made clear its views then on the scale of Haygrove's operations, and how those operations could reasonably be expanded.
68. We submit that the fact that there are existing extensive horticulture tunnels on over 5ha of the subject-property does not in any way motivate the desirability of a more than

²⁵ The first document included as part of Annexure D to the applicant's motivation.



threefold expansion of the horticulture tunnels that are now proposed for the subject-property.

Objections in response to the applicant's purported motivation regarding respective rights and obligations of all those affected

69. The applicant's suggests that a very significant increase in the infrastructure on the subject-property (by the addition of a threefold increase in multi-coloured, plastic-covered intensive horticulture tunnels), and the associated expansion in agricultural activities that will follow on the expansion, do not impact on neighbours' reasonable rights to the use and enjoyment of their property. That suggestion must be rejected because it is nonsensical.
70. Given that the applicant seeks the enhancement of the existing 'envelope' of development rights that currently apply to the subject-property, by way of:
- 70.1. the amendment of condition 3(a) in the approval granted by the Municipality in writing on 9 February 2016;
- 70.2. the significant relaxation of the side building lines on all four boundaries of the subject-property in order to allow for the development of significant infrastructure there; and
- 70.3. a departure to exceed the maximum allowable footprint of buildings on the site (from 5,000m² to over 175,000m²);
- 70.4. we submit that the applicant's application clearly obliges the Municipality to have full and proper regard *inter alia* to the likely diminution in the value of the objectors' properties that would follow on the grant of enhanced development rights to the owner of the subject-property. No such analysis has been provided by the applicant. We submit that this omission is fatal to the applications' prospects of success.
71. The applicant's planner's bald statement to the effect that there will be no infringement on existing land use rights (including the objectors' right to the reasonable use and enjoyment of their properties) is simply fallacious in the circumstances.

The motivation of the application against applicable spatial planning policies

72. The application purports to analyse the consistency of the application against relevant spatial planning policies.
73. The application is considered against the following policy documents:
- 73.1. The *Western Cape Land Use Planning Guidelines (Rural Areas)* ("WCLPGA");
- 73.2. the *Provincial Spatial Development Framework* ("PSDF"); and
- 73.3. the Municipality's *Spatial Development Framework* ("SDF").



Objectors' comments on the purported motivation in respect of consistency with the WCLPGA

74. The applicant suggests that the underlying purpose for the application is to allow the owner of the subject-property to be granted "the *most appropriate land use rights to intensify agricultural intensification as prescribed by the WCLPGA*"²⁶. It is suggested that the intensification will be achieved by increasing capital investment and labour in order to raise the yield of produce on the subject-property.
75. The objectors submit that this is an entirely one-sided and subjective analysis by WRAP. WRAP's analysis is not supported by any objectively verifiable evidence that intensified land use on the subject-property is sustainable and therefore appropriate. As is shown in these objections with reference to the objectively determinable desirability of the application, the application is inherently undesirable when all relevant factors are properly considered, and rationally accorded their appropriate weight.
76. As regards the applicant's statement that the proposal does not entail the fragmentation of the agricultural land uses on the property, that may be correct but again, is motivated exclusively from the applicant's (subjective) perspective and self-interest.
77. As regards the provisions in the WCLPGA relating to the development's reinforcement of the farm precinct and the reflection of similar scale, the objectors submit that the proposal is massively over-scaled. The fact that the intensive horticulture tunnels are "lower than the 12m height restriction" in no way derogates from the significant scale of the proposed erection of the tunnels in question. The fact that there may be other intensive agricultural land uses in the Hemel-en-Aarde rural area (none of which are explained in any detail in the application) does not represent harmonious scale in the area. To the contrary, the proposal to develop the subject-property by the installation of some 17,5ha under intensive horticulture tunnels.

Objectors' comments on WRAP's purported motivation in respect of the application's consistency with the PSDF

78. The suggestion that inclusive economic growth will be promoted by the application is not suitably motivated by the applicant. Although our clients are clearly alive to the fact that the owner of the subject-property would benefit substantially from the increased production envisaged by the addition of intensive horticulture tunnels on a further 11,6737ha on the subject-property, there is no explanation as to how that economic growth would benefit parties other than the property owner (and to a lesser extent, the workers who might be contracted as a result of the expansion).
79. The comparative strengths of the Hemel-en-Aarde valley relate not only to high agricultural output from a variety of agricultural initiatives including cultivation of grapes and wine production but also the value of the area as a tourist destination. The application is unlikely to capitalise in any material way on the latter income-earning activities and in fact will in all reasonable likelihood derogate from the tourism attractions currently on offer.

²⁶ Paragraph 14.1.1 on page 17 of WRAP's application dated August 2019.



Objectors' comments on the purported motivation in respect of the application's consistency with the SDF

80. The application does not meet the imperatives of the SDF, because it does not establish that the proposed expansion (objectively viewed) is to the benefit of all affected residents within the area.
81. The application is motivated almost exclusively from the self-interested perspective of the applicant, as owner of the subject-property. As such, the application cannot be said to be aligned with the applicable policy imperatives articulated in the SDF.

Objectors' comments on the applicant's purported motivation of the planning principles contained in Chapter 2 of SPLUMA

82. The applicant suggests that the implementation of the proposal, by its approval by the Municipality will "... contribute to combating spatial development imbalances caused by apartheid spatial planning".
83. The seasonal contract workers retained by the applicant are bussed to the subject-property on a daily basis from Hermanus and the town's environs, in order to perform their work. At the end of the day they return to the homes in which they reside, which are principally informal structures within the townships surrounding Hermanus. There can thus be no suggestion that the approval of the proposal would contribute to addressing spatial development imbalances, as the applicant would have it.
84. Furthermore, the applicant provides no indication whatsoever as to the share of that income that would be derived by the seasonal contract workers. It is therefore facile and misleading to suggest that the application promotes sustainable rural development, or that such development is appropriate and inclusive.
85. As regards the applicant's assertion that the implementation of the development proposal would increase agricultural output which "... promotes efficiency at (sic) the output will be higher with low resource input" we submit on behalf of the objectors that there is a fundamental difference between efficient utilisation (as the applicant would have it) and sustainable utilisation that properly strikes a balance between the ecological, social and economic impacts of the proposal. To the extent that utilising the subject-property more efficiently impacts significantly and negatively on the existing rights of neighbouring property owners to reasonably use and enjoy their property, the application simply does not pass muster.
86. As regards the planning principles pertaining respectively to spatial resilience and good administration, we submit on behalf of the objectors that the proposal is not in harmony with the relevant spatial planning policies. WRAP's proposition that the subject proposal is in harmony with the relevant spatial planning policies pertinent to the subject-property and therefore (if approved and implemented) able "... to absorb environmental and economic shock in a timely and efficient manner" can now be properly tested against the impacts of the Covid-19 pandemic. We submit that the applicant must provide an analysis of the impacts of the latter occurrence in order properly to inform the Municipality's decision-making discretion in regard to this application.



87. As regards the proper administration of the application and good administration generally by the Municipality, we submit that a proper and objective analysis of the merits of the application must result in the refusal thereof.
88. The applicant's planner's motivation concludes with the following recommendation: "*This motivation report has illustrated that this proposal is desirable and will be of value to the surrounding property owners and prospective employees.*"
89. For the reasons set out in this objection we submit that the proposal (objectively viewed) is fundamentally undesirable. It therefore fails the threshold test stipulated in the By-law. We deny on behalf of our clients that the proposal will be of any value whatsoever to surrounding property owners.
90. There is no also objectively verifiable proof provided with the application in respect of the engagement of employees as opposed to the *ad hoc* retention of (and more recently, the termination of contracts with) contract workers. To the extent that the applicant's planner suggests that the rural and urbanised poor who will allegedly benefit from the implementation of the development will enjoy tangible benefits, there is no evidence put up in support of the application that verifies that assertion.

Relevant considerations pertaining to the lack of desirability of the application that are entirely omitted from the applicant's motivation (which renders the application fatally flawed)

91. What is also notable about the applicant's purported motivation as currently framed is the wholesale omission to deal with aspects and likely impacts that are centrally relevant to the desirability enquiry obliged by law of the Municipality, with particular reference to the impacts likely to be suffered by the objectors in the event that the application is approved by the Municipality. These include (but are not limited to) the following:
- 91.1. The wholesale failure by the applicant to address the issue of sustainable water supply to the subject-property for purposes of the expanded intensive agricultural activities envisaged by the applicant, including proof of the applicant's rights to water supply and water use to meet its likely demand. We submit that to the extent that the applicant pursues the application, the Municipality should oblige the applicant to produce an appropriately detailed analysis of the existing and proposed operation's water abstraction, storage and use patterns, and should provide written proof to the Municipality that the applicant holds the relevant statutory water use rights in respect of those uses;
- 91.2. the impact of the proposed relaxation of the building lines on the respective obligations of the owner of the subject-property, and adjoining and proximate neighbours, in terms of the National Veld and Forest Fire Act²⁷; and
- 91.3. the significant and dangerous existing impacts caused to residents of the Hemel-en-Aarde valley by incessant traffic, both on the primary access road through the valley and on the minor road via which the subject-property is presently accessed.²⁸ Our instructions are that busses, taxis, light delivery vehicles and heavy reticulated trucks

²⁷ Act 101 of 1998.

²⁸ Minor Road OP04012.



pose a significant threat to other road users, but the impacts of existing traffic are not explored nor analysed in the motivation (to say nothing of the significant increase in traffic that could be anticipated in the event that the application is granted by the Municipality). This is another significant omission in the application as currently framed. To the extent that the applicant pursues the application, we submit that the Municipality should oblige the applicant to produce an appropriately detailed traffic impact assessment by an appropriately qualified expert before the application can proceed to the decision-making stage

The defective nature of the property owner's power of attorney; and company resolution

92. Annexure B to the application includes a power of attorney signed by a director of the owner of the subject-property; and a company resolution.
93. The power of attorney²⁹ authorises WRAP to undertake the following acts: "*The application for amendment of conditions of approval and departure from building lines.*"
94. The company resolution signed by the directors of the subject-property's owner authorises one of the directors to act on behalf of the company regarding "... *applications for the following: Amendment of conditions of approval and departure from building lines.*"
95. Neither the power of attorney nor the company resolution make any reference to an application for departure from the maximum of 5,000m² allowable floor space for all buildings on the land unit, to permit a floor space of 17,8444ha (over 178,000 square metres) in order to accommodate the infrastructure required for intensive horticulture.
96. It follows in our submission that the necessary authority has not been provided by the subject-property's owner for the latter departure application. That omission has the consequence that the power of attorney and company resolution fall foul of the statutory requirements set out respectively in section 39(1)(b), and section 39(1)(c) of the By-law.
97. To the extent that the applicant's planner persists in pursuing the application as currently framed, the failure by the property owner to provide the necessary power of attorney and company resolution for purposes of the departure pertaining to the maximum allowable floor space, the application is fatally defective on that aspect.
98. It follows that the Municipality cannot approve the application for departure from the maximum of 5,000m² allowable floor space for all buildings on the land unit to permit a floor space of 17,8444 to accommodate intensive horticulture, as the delivery of that application to the Municipality has neither been authorised by a power of attorney from the owner of the subject-property to the applicant's planner, nor is it the subject of a properly formulated company resolution that complies with the peremptory requirements stipulated in section 39(1)(c) of the By-law.

²⁹ Signed by Mr. Sean Tager on 13 May 2019.



Request for a site visit by the Municipality (in terms of section 60 of the By-law) before deciding the application on its merits

99. On the facts and circumstances of the application, we submit that the Municipality's officials and the chairperson and members of the Municipal Planning Tribunal (or any official delegated to make the decision that is the subject of these objections) must undertake a site visit of the subject-property and its surrounds in order fully to apprise themselves of the current intensive agricultural operations on the subject-property, and the significant and objectionable impacts that would be caused to the subject-property's neighbours and other proximate landowners in this part of the Hemel-en-Aarde valley if the development proposal envisaged in the application is authorised to proceed by the Municipality.
100. The Municipal officials' powers to enter land or a building for purposes of assessing an application made in terms of the By-law, and in order to prepare the written assessment of the application contemplated by section 57 of the By-law are set out in section 60.
101. An important aspect of a properly constituted site visit will relate to the municipal decision-maker satisfying itself as to the applicant's compliance with the stipulations set out in the Municipality's approval granted on 9 February 2016 and pertaining to Haygrove's first application for consent use and departures to accommodate the infrastructure required for "intensive horticulture (tunnels)", as that approval described it. The same applies to the relevant conditions in the 2016 municipal approval and to the documents referred to in those conditions. For example, condition 3(g) of the February 2016 municipal approval states the following: "... (g) that all conditions in the Services Report (attached as Annexure 1) be complied with; ...". The Services Report includes the following condition: "... 2. That no water service from Overstrand Municipality is available and the developer will be responsible to obtain the necessary approval (sic), licence and permits from the applicable authorities (water affairs, health etc.) for the use of any water resources and the extraction thereof."
102. Particularly in light of WRAP's entirely superficial analysis of water use rights and the likely impact of the proposed expansion of Haygrove's agricultural activities on water resources without a proper analysis of those rights, we submit that it is incumbent upon the municipal decision-maker to establish the relevant facts. That is best done on-site, where Haygrove's personnel can reasonably be expected to produce the relevant documentary information pertaining to water use rights, including storage and abstraction rights.

Request for a hearing before a decision is made on the merits of the application

103. To the extent that the Municipality is minded to convene a meeting of the Municipal Planning Tribunal (or for that matter, when the matter serves before the Municipality's delegated official) we submit that the objectors are entitled to attend on that meeting and to deliver whatsoever oral representations may be necessary and relevant in the circumstances and in support of their representations.
104. We submit that it behoves the Municipality to grant an audience to the objectors and the applicant when it considers its decision of first instance in order to ensure that the parties' rights to administrative action that is lawful, reasonable and procedurally fair is fully given effect to, given the facts and circumstances of the application. We look forward to hearing from the Municipality in this regard.



Concluding submissions; relief sought by the objectors

105. For the reasons set out in this objection read with its annexures, we submit that the application, objectively viewed, is fundamentally undesirable and as such, does not meet the jurisdictional requirements in section 66 of the By-law, and pertaining to the general criteria for the Municipality's consideration of applications.

106. The application must therefore be refused by the Municipality.

Yours faithfully,
NICHOLAS SMITH ATTORNEYS
Per:

NICHOLAS SMITH

Annexure A:

List of owners of immovable property constituting the De Werf Body Corporate, Sectional Plan No SS266 92, situate at Portion 15 of the Farm Hemel-en-Aarde No. 587, Division Caledon

| | Name of owner | Immovable property details | Owner's representative | E-mail address |
|-----|------------------------------|----------------------------|------------------------|-----------------------------------|
| 1. | G P Grobler | Unit 1 | G P Grobler | gpgrob@iafrica.com |
| 2. | The Karee Trust | Unit 2 | A E van Riet | ensinvr@iafrica.com |
| 3. | N A Howarth | Unit 3 | N A Howarth | howarthholdings@icloud.com |
| 4. | De Werf Silo (Pty) Ltd | Unit 4 | K McManus | kevin.mcmanus@investec.co.za |
| 5. | M Y Guttler | Unit 5 | M Y Guttler | michelle.guttler@directaxis.co.za |
| 6. | Gamlan Investments (Pty) Ltd | Unit 7 | G Lanfranchi | glancario@swishproperties.co.za |
| 7. | J J Stadler | Unit 8 | J J Stadler | stadlera@iafrica.com |
| 8. | G T Field | Unit 9 | G T Field | topcap@iafrica.com |
| 9. | The Hancke Family Trust | Unit 10 | M Cloete | mamac@vanhoe.net |
| 10. | R C Bolus, A Bonthuys | Unit 11 | R C Bolus | bolusrobert@gmail.com |

List of objectors proximate to the subject-property

| | Name of owner | Immovable property details | Owner's representative | E-mail address |
|-----|--------------------------------|--|------------------------|-------------------------|
| 11. | Finglass (Pty) Ltd | Developable portions 5 and 7 in phases 2 and 3 of the residential development on Portion 15 of the Farm Hemel-en-Aarde No. 587, Division Caledon | Josh Kumpers | josh@figroup.co.za |
| 12. | Hermanus Aberdeen 44 (Pty) Ltd | Farm 905, Caledon | Craig Wessels | craigw@wickedpixels.com |

Navrae:
Enquiries: H Olivier (Town Planner)

Lêervervysing:
File Reference: RCAL 94/587

Datum:
Date: 24 June 2020



Dear Interested & Affected Party

REQUEST FOR COMMENTS / OBJECTIONS / CONSENT

PORTION 94 OF FARM HEMEL AND AARDE NO. 587: APPLICATION FOR DEPARTURE AND AMENDMENT OF CONDITIONS OF APPROVAL : WRAP ON BEHALF OF HAYGROVE HEAVEN (PTY) LTD

1. The above application refers.
2. Registered notices were sent to all the potentially affected property owners on 20 January 2020. The closing date for **comments/objections** was 21 February 2020. Subsequent to the public participation process it came under our attention that the notice was not circulated to you. An **opportunity** to comment/object to the proposal is hereby given.
3. In view of the aforesaid, you are hereby requested to provide your **comment/objection/consent** to the proposal. Attached please find the notice and annexures for your attention.
4. Kindly note that should consent be provided, a copy of the site development plan must also be signed.
5. Any written comments may be submitted in accordance with the provisions of Sections 51 and 52 of the said By-Law to the Municipality [(e) loretta@overstrand.gov.za] on or before **Friday, 31 July 2020**.

Yours faithfully



S MÜLLER
DIRECTOR : INFRASTRUCTURE AND PLANNING

Tel: 028 3138900
Fax: 028 3132093
E-mail: loretta@overstrand.gov.za

PO Box 20 / Postbus 20
HERMANUS
7200

28/49.

PORTION 94 OF FARM HEMEL AND AARDE NO. 587, DIVISION CALEDON: APPLICATION FOR DEPARTURE AND AMENDMENT OF CONDITIONS OF APPROVAL: WRAP ON BEHALF OF HAYGROVE HEAVEN (PTY) LTD

Notice is hereby given in terms of Section 48 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 that an application has been received for the following:

A departure in terms of Section 16(2)(b) in order to:

- relax the eastern lateral building line from 30m to 3m to accommodate the proposed intensive horticulture tunnels;
- relax the southern lateral building line from 30m to 5m to accommodate the proposed intensive horticulture tunnels;
- relax the western lateral building line from 30m to 2m to accommodate the proposed intensive horticulture tunnels;
- relax the northern lateral building line from 30m to 12m to accommodate the proposed intensive horticulture tunnels;
- departure from the maximum 5000m² cap for all buildings on the subject property to permit the existing and proposed intensive horticultural expansion up to 17,8444ha

Amendment of the conditions of approval in terms of Section 16(2)(h) in order to allow the expansion of the intensive horticulture tunnels

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning, Paterson Street, Hermanus. Any written comments may be submitted in accordance with the provisions of Sections 51 and 52 of the said By-Law to the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) on or before **Friday, 31 July 2020**, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to **Mr. H Olivier** at 028-313 8900. The Municipality may refuse to accept comments received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them in order to formalize their comment.

GEDEELTE 94 VAN PLAAS HEMEL EN AARDE NR. 587, CALEDON DISTRIK: AANSOEK OM AFWYKING EN WYSIGING VAN GOEDKEURINGSVOORWAARDES: WRAP NAMENS HAYGROVE HEAVEN (PTY) LTD

Kennis geskied hiermee ingevolge Artikel 48 van die Overstrand Munisipaliteit Verordening vir Munisipale Grondgebruikbeplanning, 2016 dat 'n aansoek ontvang is vir die volgende:

Aansoek om afwyking is ontvang ingevolge Artikel 16(2)(b) vir die volgende;

- verslapping van die oostelike syboullyn vanaf 30m na 3m om die voorgestelde intensiewe tuinboultonnels te akkommodeer;
- verslapping van die suidelike syboullyn vanaf 30m na 5m om die voorgestelde intensiewe tuinboultonnels te akkommodeer;
- verslapping van die westelike syboullyn vanaf 30m na 2m om die voorgestelde intensiewe tuinboultonnels te akkommodeer;
- verslapping van die noordelike syboullyn vanaf 30m tot 12m om die voorgestelde intensiewe tuinboultonnels te akkommodeer;
- Afwyking van die maksimum toegelate grootte van 5000m² vir alle geboue op die bestaande eiendom tot 17,8444 ha, ten einde die voorgestelde tuinboultonnels te akkommodeer.

Wysiging van goedkeuringsvoorwaardes ingevolge artikel 16(2)(h) ten einde die voorgestelde uitbreidings van die intensiewe tuinboultonnels te kan akkommodeer.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus. Enige kommentaar op die voorstel moet skriftelik ingedien word in terme van Artikels 51 en 52 van die voorgeskrewe Verordening na die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) voor of op **Vrydag, 31 Julie 2020**, met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan **Mnr. H Olivier** by 028-313 8900. Die Munisipaliteit mag weier om die kommentaar te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formaliseer.

29/49

INXALENYE 94 YEFANA HEMEL AND AARDE INANI 587, ICANDELO LASECALEDON: ISICELO SOKUPHAMBUKA, KWAYE NOHLENGAHLENGISO LWEEMEKO ZOKUVUNYWA: WRAP CONSULTANCY (EGAMENI LIKA HAYGROVE HEAVEN (PTY) LTD)

Kukhutshwe isaziso ngokwemiba yeSolotya-48 uMthetho kaMasipala wase-Overstrand kuCwangciso loSetyenziso koMihlaba, lowama-2015 (UMthetho) ukuthi kufunyenwe isicelo soku kulandelayo:

Ukuphambuka ngokwemiba yeSolotya 16(2)(b) ukuphambuka kokulandelayo:

- Ukuphambuka kumgca wokwakha osepuma ecaleni ukusuka ku 30m ukuya ku 3m ukuvumela ityhubhu yokulima yezityalo;
- Ukuphambuka kumgca wokwakha osemazantsi ecaleni ukusuka ku 30m ukuya ku 2m ukuvumela ityhubhu yokulima yezityalo;
- Ukuphambuka kumgca wokwakha osentshona ecaleni ukusuka ku 30m ukuya ku 2m ukuvumela ityhubhu yokulima yezityalo;
- Ukuphambuka kumgca wokwakha osemantla ukusuka ku 30m ukuya ku 12m ukuvumela ityhubhu yokulima yezityalo;
- uKusuka kubuninzi obuyi-5000m² obvumelekileyo bendawo yonke yezakhiwo kwipropathi yomxho ukuvumela ithhubu zokulima izityalo ezikhoyo nezicelwayo zifikele kumgangatho ongama-17,8444ha.

Uhlengahlengiso lweemeko zokuvunywa ngokwemiba yeSolotya 16(2)(h) ukuvumela ukwandisa ithubu zokulima.

linkcukacha ezihambelana nesiphakamiso zimayela nokufumaneka ixesha lokuhlola phakathi evekini ukusukela phakathi kwentsimbi ye-08:00 ukuya ku-16:30 kwiSebe: KuCwangciso Lwedolophu kwa-16 Paterson Street, Hermanus. Yonke intetho ebhaliweyo mayifakwe ngokwezibonelelo zamaSolotya51 nama-52 kuMthetho-Ohlonyelweyo kuMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) ngomhla okanye ngapahmbi ngoLwesihlanu 31 uJulayi 2020 uchaze igama lakho, idilesi, linkcukacha zoqhakamshelwano, umdlia kweisicelo nezizathu zokwenza intetho. Imibuzo ngefowuni ingathunyelwa kuMyili weDolophu, **Mnu. Henk Olivier** kwinombolo 028-313 8900. Umasipala usenokwala ukwamkela intetho emva komhla wokuvula. Nabani na ongakwaziyo ukufunda nokubhala angahambela iSebe loCwangciso apho aza kuncedwa ligosa likaMasipala ukuze bafake intetho yabo ngokusemthethweni.

31/49



MOTIVATION

8. RURAL ENVIRONMENT

The rural environment of the Hemel en Aarde is predominantly agricultural with some intensive agriculture and horticulture. There are also subservient tourism related land uses on some farms. The approval and implementation of this proposal is in synchrony with the rural environment which is valued by the residents.

9. TITLE DEED

Title deed T97282/2007 was perused and there are no restrictive title deed conditions which prohibit the subject proposal.

10. ZONING

The compliance or deviation of this proposal from the Agriculture Zone 1: Agriculture zoning will herewith be assessed and is a relevant consideration in terms of Section 66 (1) (a) of the OM By-Law.

| Agriculture Zone 1: Agriculture | | | |
|--|--|--|--------------------------|
| | Parameters | Proposal | Deviate or comply |
| (a) Primary use | agriculture, dwelling house, day care centre, guest rooms, home occupation; | Agriculture | Comply |
| (b) Consent use | additional dwelling units, agricultural industry, animal care centre, aquaculture, crèche, farm shop/stall, guest house, hotel, institution, intensive animal farming, intensive horticulture , mining, place of assembly, place of entertainment, place of instruction, plant nursery, riding stables, rooftop base station, service trade, tourist accommodation, tourist facilities, transmission tower, utility services, wellness centre, 4 x 4 trail. | Intensive horticulture (tunnels) expansion | Application motivated |
| Development rules | | | |
| Floor space | The total floor space of all buildings on the land unit, may not exceed 5 000m ² ; provided that Council may relax this requirement if it is satisfied that such buildings are required for genuine farming activities on the land unit. | 17,5464ha | Departure motivated |
| Building lines | Street and common boundary building lines are all 30m | Departure from the 30m eastern side building line to 3m to accommodate the proposed intensive horticulture tunnels; | Departure motivated |

File 19/47
Portion 94 of Farm Hemel en Aarde 587 Caledon
August 2019



MOTIVATION

| | | | |
|---------|--|--|--------|
| | | <p>Departure from the 30m southern side building line to 5m to accommodate the proposed intensive horticulture tunnels;</p> <p>Departure from the western 30m building line to 2m to accommodate the proposed intensive horticulture tunnels; and</p> <p>Departure from the northern 30m building line to 12m to accommodate the proposed intensive horticulture tunnels.</p> | |
| Height | <p>(i) The maximum height of a building, measured from the base level to the top of the roof is 8.0 m, provided that;</p> <p>(ii) Agricultural buildings other than dwelling units shall not exceed a height of 12.0 m measured from the base level to the top of the roof; and where Council is satisfied that a greater height is necessary for the agricultural function of the building, it may permit such greater height; and</p> <p>(iii) Earth banks and retaining structures shall comply with 16.6, provided that earth banks and retaining structures, which in the opinion of Council are associated with the bona fide agricultural activities, are exempt from the requirements of 16.6.</p> | <p>(i) Buildings which are not related to agriculture are not higher than 8m;</p> <p>(ii) The existing and proposed intensive horticulture building do not and will not exceed the 12m height restriction;</p> <p>(iii) Comply</p> | Comply |
| Parking | <p>Parking and access shall be provided on the land unit in accordance with 17.1.</p> <p>Office 6 bays per 100m² GLA</p> <p>Storage 2 bays per 100m² GLA</p> <p>Loading bays</p> | <p>The office is 587m² and require 35,36 parking bays;</p> <p>Storage/pack shed is 1114m² and requires 22,28 parking bays. There are 58 parking bays required and 62 parking bays are provided.</p> | Comply |

File 19/47
 Portion 94 of Farm Hemel en Aarde 587 Caledon
 August 2019



MOTIVATION

| | | | |
|--|---|--|--|
| | 1 bay per 500m ² for the first 1 000 m ² of GLA, thereafter 1 bay per 1 000 m ² . There are no parking requirements for intensive horticulture tunnels. | The GLA is 1701 m ² and there are 4 loading bays required which are provided. | |
|--|---|--|--|

11. SERVICES

The availability of services to guarantee the functionality of the proposed intensive horticulture expansion will herewith be illustrated.

11.1 Water

There are historic water rights which exist on the subject property. The proposed tunnel expansion is aligned with the existing water rights capacity. The existing agricultural fields will be converted to intensive horticulture and there will be no expansion of the existing agricultural fields. This will ensure that the extraction of water does not exceed existing capacities.

11.2 Sewage

"Boland Toilet" provides toilets and pumping services for the agricultural fields and tunnels. The same services will be used to cater to the proposed horticulture tunnels. The sewage services have been installed in accordance with the prescripts of audits which have been done on the property and the capacity thereof can be regarded as sufficient.

The packhouse and offices have tanks which get emptied by the Overstrand Municipality.

11.3 Electricity

The subject farm gains electricity connection to Eskom which the approval and implementation of this proposal will not alter.

11.4 Access

Access to the subject property is currently gained from Minor Road number OP04012 from km marker 0,991. The approval and implementation of this proposal will not alter this.

12. NEED AND DESIRABILITY

The need and desirability of the approval and implementation of this proposal will be illustrated in accordance with Section 66 (1) (c) of the OM By-Law.

12.1 Compatibility with surrounding land uses

Most of the farms in the Hemel en Aarde are agriculturally productive with some intensive horticulture. The adjacent Portion 11 of Farm Hemel en Aarde 587 Caledon also belongs to Haygrove Heaven (Pty) Ltd and has intensive horticulture which makes this proposal compatible with surrounding land uses.

12.2 Impact on views, sunlight and character of the area

The proposed horticulture tunnels will not exceed the permissible 12m height restriction for agricultural buildings which all farmers in the OM enjoy. The tunnels will therefore not be visually imposing. The visual colour diversity which the approval and implementation of this proposal will

File 19/47
Portion 94 of Farm Hemel en Aarde 587 Caledon
August 2019

34/49



MOTIVATION

bring about in the Hemel en Aarde is desirable and is one of the draw cards which attract tourists to the area.

12.3 Economic impact

Intensive horticulture is more labour-intensive in comparison to other agricultural land uses, and the approval and implementation of this proposal will substantially increase the number of people employed on the subject farm. This will therefore lead to the reduction of poverty which is a positive economic impact.

12.4 Need

The population growth of SA and other countries coupled with pressure for agricultural land to be converted to non-agricultural land uses puts pressure on farmers to increase agricultural yield/output per square meter. Intensive horticulture is a mechanism which farmers apply to respond to the increasing demand for additional agricultural supply. There is therefore a definite need for the OM to approve this application so that the owner of the subject property can contribute to increasing and enhancing food security.

12.5 Impact on heritage

None of the provisions in the National Heritage Resources Act, 1999 are triggered by this proposal.

12.6 Environmental impact

No listed activities in terms of the National Environmental Management Act are triggered by this proposal. The proposed horticulture expansion areas do not encroach on any environmentally sensitive parts of the subject farm.

13. SPLUMA MOTIVATION REQUIREMENTS

This application is motivated in terms of the requirements of SPLUMA which is a relevant consideration in terms of Section 42 (c).

13.1 Public interest

The approval and implementation of this proposal will lead to the visual enhancement of the subject site which is in the public interest and additional taxes will be collected by SARS. The taxes which will be collected by SARS will be used for service delivery which is in the public interest.

13.2 Constitutional transformation imperatives of the state

The constitutional transformation imperative of the state includes enabling farmers to flourish economically and share the proceeds with workers with the intent of improving the access to opportunities for rural residents. The approval and implementation of this proposal will therefore enable the owner of the subject property to implement the constitutional transformation imperatives of the state.

13.3 Facts and circumstances pertaining to the application

Intensive horticulture has historically been approved on the subject property and signals that the OM considered the originally submitted proposal to be desirable. This proposal is not intended to alter the desirable intensive horticulture land use right which is applicable on the subject property but is only intended to expand the footprint.

File: 19/47
Portion 94 of Farm Hemel en Aarde 587 Caledon
August 2019



MOTIVATION

13.4 Respective rights and obligations of all those affected

The proposed expansion of the intensive horticulture tunnels is not projected to interfere with the community's health, wellbeing and comfort in the occupation of their land. The land use right enjoyed by neighbouring property owners will therefore not be infringed upon.

14. SPATIAL PLANNING POLICIES

The consistency of this proposal with all relevant spatial planning policies was investigated. This is a relevant consideration in terms of Section 66 (1) (h), (i) (u) (k) and (l) of the OM By-Law:

14.1 WCLPGRA

The policy promotes appropriate growth of the rural economy in appropriate locations. Policy proposals in the WCLPGRA pertinent to this proposal are recorded as below:

14.1.1 Improve the economic viability of farms through the intensification

Intensification on farms is achieved by increasing capital investment and labour to raise yield/output. The purpose of this application is for the property owner to be conferred the most appropriate land use rights to implement agricultural intensification as prescribed by the WCLPGRA.

14.1.2 Restrict the fragmentation of agricultural landscapes

Agricultural fragmentation is when farms are subdivided into small units which reduces the agricultural viability of each unit. This proposal does not constitute agricultural fragmentation but is intended to enable the property owner to increase agricultural output which is in contrast with fragmentation and is encouraged in the WCLPGRA.

14.1.3 Development should reinforce farm precinct and reflect similar scale

The proposed tunnels will not exceed the 12m height restriction, are not visually imposing and are in synchrony with scale of similar structures on neighbouring farms.

14.2 PSDF

The aim of the PSDF is to communicate the governments sound spatial development intentions to the private sector and civil society. Policy proposal in the PSDF which are pertinent to this proposal are recorded below.

14.2.1 Prioritise rural development and investment in agriculture

This proposal is intended to prioritise rural development by increasing investment in agricultural activities on the subject property as prescribed by the PSDF. This will therefore promote inclusive economic growth in the Hemel en Aarde rural area.

14.2.2 Expand and diversify agriculture

The increased agricultural output which the approval and implementation of this proposal would bring about will enable the farm owner to have a wider range of fruits which can be planted and contribute to diversification of agricultural activities.

14.2.3 Capitalise on the comparative strengths of the Western Cape

The comparative strength of the Hemel en Aarde is the high agricultural output and performance of the rural area. This proposal is intended to capitalise on this comparative strength of the rural area.

File 19/47
 Portion 94 of Farm Hemel en Aarde 587 Caledon
 August 2019



MOTIVATION

14.3 SDF

The SDF identifies areas where growth and changes are projected and contains policy proposals which ensure that this occurs to the benefit of the inhabitants of the OM. Policy proposals in the SDF which are pertinent to this proposal are recorded below.

14.3.1 Develop and maintain a strong local economic base in rural areas

The Hemel en Aarde has a relatively strong economic base and the approval and implementation of this proposal would contribute to the strengthening of the economic base in the rural area.

14.3.2 Protect agricultural resource base

This proposal does not only protect the agricultural resource base but is intended to at least double the agricultural output on the subject farm as prescribed by the SDF.

14.3.3 Spatial proposal plan

The subject property is designated as a core agricultural area and the proposal for intensive horticulture is in harmony with this land use designation.

15. PLANNING PRINCIPLES

Chapter 2 of SPLUMA contains 5 uncompromisable planning principles which each development application must be guided by. Policy proposals in SPLUMA which are pertinent to this proposal are recorded below:

15.1 Spatial justice

Apartheid spatial planning entailed the concentration of economic activities in urban centres at the expense of neglecting rural residents. This proposal entails opening up economic opportunities in the Hemel en Aarde rural area to the benefit of rural residents. This will therefore contribute to combating spatial development imbalances caused by apartheid spatial planning.

15.2 Spatial sustainability

This proposal promotes enhancing the functionality of the rural space economy by ensuring that unemployed people can have a share of the income which will be derived on the subject property. This therefore promotes sustainable/inclusive rural development which is contextually appropriate.

15.3 Efficiency

Efficiency of rural areas entails higher agricultural output with minimal resource input. The proposed expansion of the intensive horticulture promotes efficiency of the output will be higher with low resource input.

15.4 Spatial resilience

The subject proposal is in harmony with the relevant spatial planning policies pertinent to the subject site which promote resilience. This will enable the approval and implementation of this proposal to be able to absorb environmental and economic shock in a timely and efficient manner.

37/49



MOTIVATION

15.5 Good administration

The OM has a credible track record of good administration regarding the method of public participation which accepts comments from the public to make an informed decision as well as complying with the prescribed time frames pertaining to the processing of applications.



EVALUATION AND RECOMMENDATION

16. EVALUATION

The rationale for the approval and implementation of this proposal can be summarised as follows:

This proposal is to apply for an amendment of conditions of approval to enable the expansion of the intensive horticulture on the subject property from 5,8727ha to 17,5464ha and to apply for building line departures.

The proposed horticulture expansion areas will not exceed the 12m height and therefore not be a visual imposition on the rural landscape. There are no excessive noises which are projected to be generated within the building lines which are proposed to be encroached and this will ensure that the approval and implementation of this proposal does not interfere with comfort which property owners enjoy in the occupation of land.

There is also a definite need for the OM to allow and enable the increase of the yield/output agricultural products in the OM to guarantee food security.

This proposal is in synchrony with all spatial planning policies and planning principles. This illustrates that the owner of the subject farm did not arbitrarily invent this proposal but was informed by relevant policies before concluding to forge ahead with this proposal.

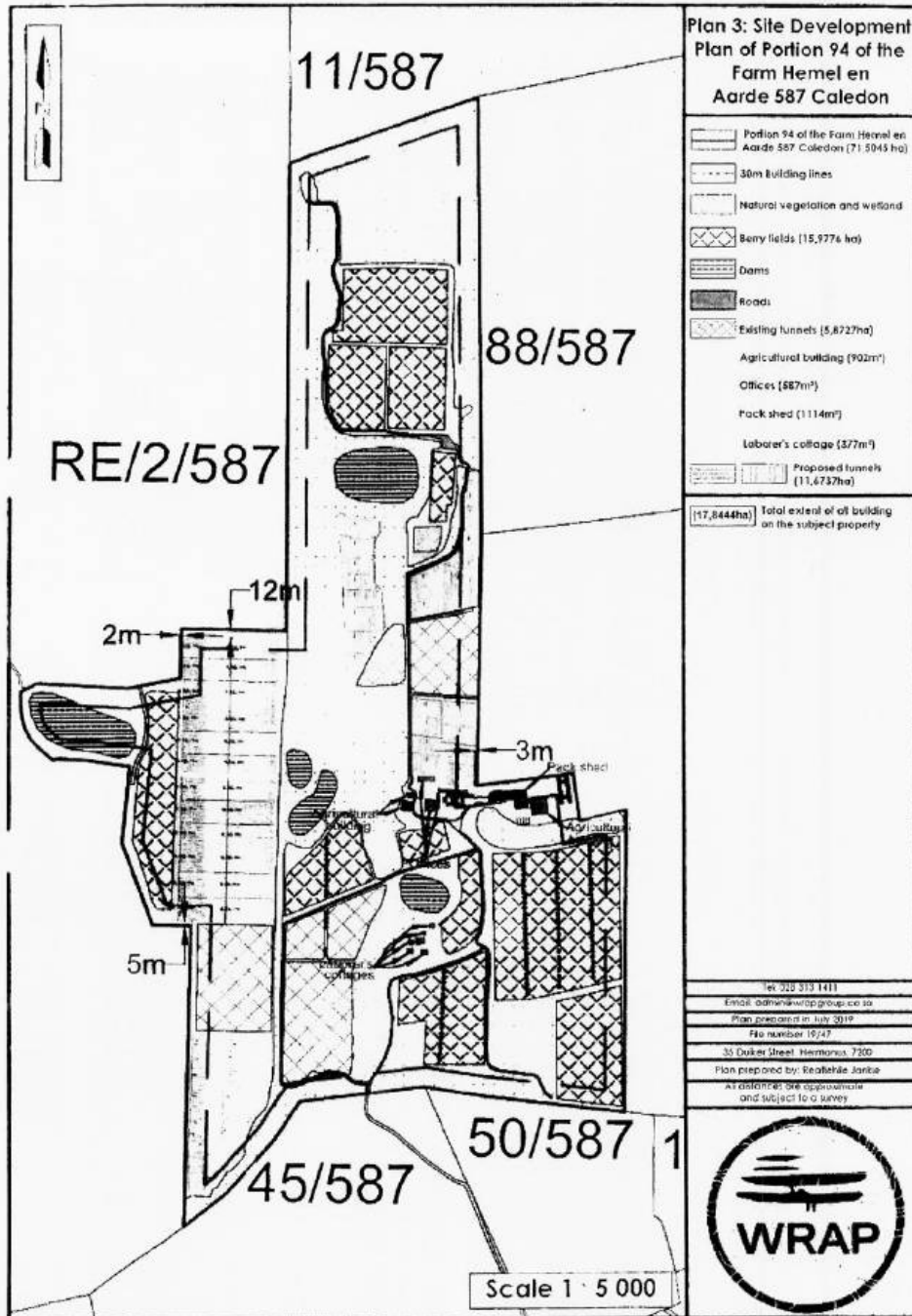
17. RECOMMENDATION

This motivation report has illustrated that this proposal is desirable and will be of value to the surrounding property owners and prospective employees. It is recommended that the following is approved:

- 17.1 **Amendment of condition of approval 3 (a)** contained in letter of approval dated 9 February 2016 to allow the proposed expansions of the tunnels from an area which measures 5,8727ha to one that measures 17,5464ha in terms of Section 16(2)(h) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015;
- 17.2 **Departure** from the 30m eastern side building line to 3m to accommodate the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015;
- 17.3 **Departure** from the 30m southern side building line to 5m to accommodate the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015;
- 17.4 **Departure** from the western 30m building line to 2m to accommodate the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015;
- 17.5 **Departure** from the northern 30m building line to 12m to accommodate the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015; and
- 17.6 **Departure** from the maximum 5000m² cap for all buildings on the subject property to permit the existing and proposed intensive horticultural expansion to be 17,8444ha in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015.

File 19/47
Portion 94 of Farm Hemel en Aarde 587 Caledon
August 2019

39/49



40/49

Loretta Gillion - RE: Portion 94 of Farm Hemel and Aarde 587

From: "Nick Smith" <nicks@nsmithlaw.co.za>
To: "magdaleen swart" <magdaleenswart@overstrand.gov.za>
Date: 31/07/2020 03:21 PM
Subject: RE: Portion 94 of Farm Hemel and Aarde 587
Cc: "Loretta Gillion" <lpge@overstrand.gov.za>

Dear Ms. Swart

Thank you for acknowledging receipt of the objections and annexures thereto delivered by email this afternoon.

Regarding the objections, we would be grateful if you would pay particular attention to our request that the Municipality's officials undertake a site visit to the property that is the subject of this application (*Portion 94 Farm Hemel and Aarde 587*), and the neighbouring *Portion 11*, which is also the subject of a pending land use application (on which we delivered our clients' objections on 15 November last year, and on which we have heard nothing further from the Municipality since receipt of a letter from your Director: Infrastructure and Planning dated 29 November 2019) before the applications are considered on their merits.

We also reiterate our request the right to attend the Municipality's meeting at which the applications are discussed, and to make the necessary oral submissions there in respect of the legal position pertaining to our client's objections and any other aspects that are materially relevant. We anticipate that the applications will be tabled in a meeting of the Municipal Planning Tribunal. The issue of addressing the Tribunal was addressed in email exchanges with the Municipality's Director: Infrastructure and Planning in mid- February this year. We have not yet had a definitive response on this issue from Mr. Muller.

We look forward to hearing from you.

Regards

ND Smith

From: magdaleen swart [magdaleenswart@overstrand.gov.za]
Sent: 31 July 2020 02:30 PM
To: nicks@nsmithlaw.co.za
Cc: Loretta Gillion <lpge@overstrand.gov.za>
Subject: RE: Portion 94 of Farm Hemel and Aarde 587

Dear Mr. Smith,

We hereby acknowledge receipt of the Objection documents together with Annexure A & B

Kind Regards / Vriendelike Groete

Magdaleen Swart

41/49



From: RICHARD O'MOLONY <rom@jaywalk.co.za>
To: <magdaleenswart@overstrand.gov.za>, <lpage@overstrand.gov.za>
CC: Max Smith <maxsmith7777@gmail.com>, Mark Forster <markgforster@gmail.com...>
Date: 2020/07/01 02:30 PM
Subject: Fwd: Additional Note : Remainder of Portion 11 of Farm Hemel & Aarde 587 and Portion 94 of the Farm Hemel & Aarde 587

Dear Loretta,

I totally concur with Mr Thompson's strong objections, for exactly the same reasons as he stated

Sincerely
 Richard O'Molony
 Sect. 2 Coch y Bondhu.

C: +27 (0)84 780 5555
 E: rom@jaywalk.co.za

> Begin forwarded message:
 >
 > From: "Chris Thompson" <basic@global.co.za>
 > Subject: Fw: Re: Additional Note : Remainder of Portion 11 of Farm Hemel & Aarde 587 and Portion 94 of the Farm Hemel & Aarde 587
 > Date: 30 June 2020 at 4:36:50 PM SAST
 > To: "Richard O'Molony" <rom@jaywalk.co.za>, "Max Smith" <maxsmith7777@gmail.com>, "Mark Forster" <markgforster@gmail.com>, "jpsmith654@gmail.com" <jpsmith654@gmail.com>, "Ian Tingle" <ianadriantingle@gmail.com>, "forster.diane@gmail.com" <forster.diane@gmail.com>, "Cheryl du Sautoy" <cheryl.dusautoy@gmail.com>, "shaz@global.co.za" <shaz@global.co.za>
 > Reply-To: "Chris Thompson" <basic@global.co.za>
 >
 > FYI
 >
 > ----- Forwarded Message -----
 > From: "Chris Thompson" <basic@global.co.za <mailto:basic@global.co.za>>
 > To: "Loretta Gillion" <lpage@overstrand.gov.za <mailto:lpage@overstrand.gov.za>>
 > Cc: "magdaleen swart" <magdaleenswart@overstrand.gov.za <mailto:magdaleenswart@overstrand.gov.za>>
 > Sent: 6/30/2020 4:35:37 PM
 > Subject: Re: Additional Note : Remainder of Portion 11 of Farm Hemel & Aarde 587 and Portion 94 of the Farm Hemel & Aarde 587
 >
 > Dear Loretta
 >
 > Thank you for your email.
 >
 > Please be advised that Mr Ian Tingle (copied in) is now the new Chairman of the Cochybondhu Homeowners Association. Please send any further communication in this regard directly to Mr Tingle.
 >
 > For the record, I would like to register my strongest objection possible to all the departures Haygrove is applying for. The reasons for this are detailed in the objections submitted to you by attorney Nic Smith and others in response to the first application by Haygrove.
 >

| |
|---|
| FILE NO: Ptn 11 & Ptn 94 Hemel & Aarde 587 |
| SCAN NO: 07 |
| COLLABORATOR NO: 1425818 |

TP

01 JUL 2020

42/49

> I would also like to be informed of the exact reasons why the objections raised by Mr Smith and others would be ignored in the event of Haygrove being granted approval.

>
> Thank you and kind regards

>
> Christopher Thompson
> Section 3
> Portion 50 Farm 587
> Hemel en Aarde
> Hermanus

>
>
> ----- Original Message -----

> From: "Loretta Gillion" <lpaga@overstrand.gov.za <mailto:lpaga@overstrand.gov.za>>
> To: "basic@global.co.za <mailto:basic@global.co.za>" <basic@global.co.za <mailto:basic@global.co.za>>
> Cc: "magdaleen swart" <magdaleenswart@overstrand.gov.za <mailto:magdaleenswart@overstrand.gov.za>>
> Sent: 6/25/2020 9:29:42 AM
> Subject: Additional Note : Remainder of Portion 11 of Farm Hemel & Aarde 587 and Portion 94 of the Farm Hemel & Aarde 587

>
>> Dear Mr Thompson

>> With reference to the attached e-mails, please note that it should be made clear to the property owners when notifying them that should they have any comments on either Portion 11 or Portion 94, that such comments be separated per application. Should the comments be combined this will create confusion and add to the administrative burden when the land use planning reports are being compiled.

>> Hope you find the above in order.

>> Kindly confirm receipt of this e-mail.

>> Regards

>> Loretta Gillion
>> Administrator, Town & Spatial Planning
>> Overstrand Municipality
>> A: 16 Paterson Street, Hermanus, 7200 P: P O Box 20
>> T: 028 313 8900 | F: 028 313 2093 | E: loretta@overstrand.gov.za <mailto:loretta@overstrand.gov.za>

>> <mailto:loretta@overstrand.gov.za>
>> <mailto:loretta@overstrand.gov.za>

>>
>> Overstrand Municipality
>> A: 1 Magnolia Street, Hermanus, 7200 | P: P.O Box 20, Hermanus, 7200
>> T: +27 (0) 28 313 8000 <> | F: +27 (0) 28 312 1894 <>
>> E: enquiries@overstrand.gov.za <mailto:enquiries@overstrand.gov.za> |
>> W:www.overstrand.gov.za <http://www.overstrand.gov.za/>

>> Vision Statement: "To be a centre of excellence for the community"

>> Disclaimer: This e-mail (including attachments) is subject to the disclaimer published at:

Section 4
Portion 50 Farm 587
Hemel en Aarde
Hermanus

| |
|---------------------------------|
| FILE NO: <u>PN 94/587</u> |
| <u>Hemel Aarde</u> |
| SCAN NO: <u>04</u> |
| COLLABORATOR NO: <u>1437374</u> |

43/49



Overstrand Municipality
Attention: Ms. Loretta Gillion / Mr. Henk Olivier
16 Paterson Street
Hermanus
7200

TP - A. / heart
(H. Olivier)

By email: loretta@overstrand.gov.za; holivier@overstrand.gov.za

31 July 2020

Dear Ms. Gillion and Mr. Olivier

RE: PORTION 94 OF FARM HEMEL-EN-AARDE NO. 587, OVERSTRAND MUNICIPAL AREA, A DIVISION OF CALEDON / OBJECTIONS TO APPLICATION FOR DEPARTURE AND AMENDMENT OF CONDITIONS OF APPROVAL: WRAP ON BEHALF OF HAYGROVE HEAVEN (PTY) LTD

The advertisement for comments and objections with a closing date of 31 July 2020 refers.

Cheryl du Sautoy and Ian Tingle, Owners of Section 4, Portion 50 of Farm 587, Hemel en Aarde, a property adjacent to Portion 94 of Farm 587, hereby **formally record our objection** to the requested departures as stated in the above application.

Purpose of the application:

Regulation departure to permit the following:

1. Amendment of condition of approval 3(a) in terms of Section 16(2)(h) to allow for the significant expansion of tunnels from 5,8727ha to 17,8444 ha.
2. Four separate departure applications in terms of section 16(2)(b) of the By-law to relax the lateral building lines; and
3. a departure in terms of section 16(2)(b) of the By-law, from the maximum of 5,000m² allowable floor space for all buildings on the subject-property to allow a floor space of 175464 m² to accommodate intensive horticulture.

Objection

Firstly, we believe that this application should not be processed without considering the separate application for Portion 11 of Farm 587. Both these properties are owned and/or operated by the same company. They are next door to each other and affect the neighbours and surrounding farms as one entity. The total expansion of tunnels on both farms would be in excess of 31ha and total area of tunnels under plastic and shade cloth after expansion would be in excess of 52ha.

We have lodged a separate objection for Portion 11 of Farm 587 and below are our objections for Portion 94.

1. Paragraph 6 of the application states that
 - 1.1. "The tunnels will not bring about additional noise.". An additional 11ha of tunnels (from 5ha) will nearly triple the requirement for spraying, which will significantly increase the unpleasant noise levels currently experienced by neighbouring properties both during the day and late into the night. There will be increased traffic in the form of taxis, large trucks and buses down the side of our property which will certainly add to the noise levels.

TP

- 3 AUG 2020

44/49

1.2. *"The soft fruitsdo not smell bad or emit any offensive fumes"*. This may be the case, however, the regular crop spraying, either by ground (tractors with very loud spray mechanisms) or helicopter does emit very offensive fumes. More tunnels mean more spray which means more fumes.

2. Paragraph 7 on the Impact of Outcome of the Proposal

2.1 mentions the neighbouring farm, Portion 94 of Farm 587 also having intensive agriculture tunnels, hence implying *"harmony with neighbouring land uses"*. This statement is disingenuous as Portion 94 has the same owners;

2.2 *"The neighbouring farmers have become accustomed to the tunnels"*. This will never be the case and it is unbelievable that the statement has even been considered.

2.3 *"This proposed expansion will therefore not..... upset the visual landscape"*. Any person who visits the valley is astounded and disappointed to see the blot on the landscape of the otherwise beautiful Hemel en Aarde Valley made by the ugly plastic and black shade cloth tunnels. This disappointment is shared by the neighbouring farmers.

3. Paragraph 8 on the rural environment states that *"this proposal is in harmony with the rural environment which is valued by the residents"*. The rural environment made up of orchards and vineyards and animal farms of the Hemel en Aarde Valley is valued by the residents, however as residents we do **NOT** value the already ugly 5 ha of tunnels on the applicants land and are extremely concerned about the visual impact of another 11 ha of tunnels. From the resident's point of view, the applicant's farm does not add any value to the valley.

4. Paragraph 11 on Services:

4.1 Water: The application states that *"the proposed tunnel expansion is aligned with the existing water rights capacity"*. The open agricultural land that is proposed to be utilised for intensive horticultural purposes is currently not being farmed and hence none of the current applicant's water allocation is being used for that land. Adding an excess of 11ha of intensive planting is going to require a significant amount of extra water. In addition, the use of tunnels negates the effect of rainwater on the crops which means that the crops would need to be irrigated by run-off water saved in dams, or the Onrus river, for irrigation purposes. The Onrus river is the main supply of water to the De Bos dam which is the main supply of water to Hermanus and its surrounds. Currently, this supply is under severe pressure. Damming up the run-off water on the Haygrove property means that less water is reaching the river which only exacerbates the Hermanus water problems. The river is already reduced to a mere trickle in the dry summer months. We would suggest that the proposal provides more details on current water usage and proposed water usage in the future.

4.2 Sewage: Boland Toilet services and sewage trucks enter and leave the farm on an extremely regular basis. Having 3 times more tunnels, hence more workers and more sewage requirements, will require even more trucks which will add to offensive odours and more noise and more traffic.

4.3 Access: The small farm road and servitude currently utilised by Haygrove are already very busy with large trucks, sewage trucks, buses, taxis and cars. Many more vehicles due to nearly tripling the size of the tunnels will create more dust (pollution) and noise and degradation of the roads.

45/49

5. Paragraph 12 on Need and Desirability:

5.1 Paragraph 12.1 mentions the "*adjacent Portion 11 of Farm Hemel en Aarde 587 Caledon also belongs to Haygrove Heaven (Pty) Ltd and has intensive horticulture which makes the proposal compatible with surrounding land uses*". The fact that both properties belong to the same company and are both involved in intensive horticulture negates the fact that they are compatible with surrounding land uses as they make a larger impact on the surrounding farms and create an even bigger blot on the landscape.

5.2 Paragraph 12.2: The fact that the "*tunnels will not exceed the permissible 12m height restriction*" most certainly are "*visually not imposing*" due to their coverage and black colour and cannot in any way promote any "*visual colour diversity*". That the application can even mention that the tunnels are "*desirable*" and are "*one of the draw cards which attract tourists to the area*" is hypocritical in the extreme and absolute rubbish. Tourists are shocked and always comment on how ugly the tunnels are and how they detract from an otherwise beautiful area.

5.3 Paragraph 12.3 on Economic Impact states that "*Intensive horticulture is more labour intensive in comparison to other agricultural land use*". This statement is almost a direct contradiction of the statement in paragraph 6 which states that "*workers occasionally work in the tunnels for a short time*". Which statement should you believe? Many of the workers are seasonal workers hence only work for a short time of the year.

5.4 Paragraph 12.4 on Need: Berries, soft fruits and fynbos do not "increase and enhance food security". They are luxury items that mostly get exported to other countries.

5.5 Paragraph 12.6 on Environmental Impact: Invasive Alien Pine trees are planted between the blocks of tunnels to hide the ugly black shade cloth. The pristine fynbos on the surrounding mountain is full of young pine trees which have grown in last 4 years. Before that the vegetation was pristine indigenous fynbos. While other farmers in the area are trying to remove the invasive aliens, the applicant is planting more of them. The applicant may argue that the young pine trees are growing on neighbouring properties, but the neighbours have no control over where the seeds will blow and land. These pine trees also utilise a significant amount of water which is the run-off water supplying ultimately supplying the Onrus River which used to fill the De Bos Dam, one of Hermanus' water supply. Fires in the area are also a grave concern, and these pines also exacerbate the problem.

6. Paragraph 13 on SPLUMA Motivation Requirements:

The subject site will NOT be "*visually enhanced*" by adding an extra 11ha of tunnels covered by plastic and shade cloth.

We think that the "*implementation of the constitutional transformation imperatives of the state*" should be investigated more thoroughly and more detail should be supplied in this regard.

As mentioned in the objections above, the proposed expansion can only negatively affect the neighbouring resident's "*health, wellbeing and comfort*" therefore their land use right will definitely be infringed upon.

7. Paragraph 14 on Spatial Planning Policies:

It is erroneous to state that the tunnels will "*not be visually imposing*". The tunnels will only be "*in synchrony with scale of similar structures*" on **ONE** neighbouring farm (Portion 11) which is owned and/or operated by the same company, therefore cannot be used a reason to motivate for the expansion.

46/49

8. Paragraph 15 on Planning Principles:

Paragraph 15.1 mentions "*opening up economic opportunities in the Hemel en Aarde rural area to the benefit of rural residents*". Staff on the farm are bussed in from Hermanus town therefore there is no benefit to rural residents. There are also no tourism benefits. It would be interesting to find out what economic opportunities are alluded to in this statement.

In the final paragraph on Recommendation, it states that "*the motivation report has illustrated that this proposal is desirable and will be of value to the surrounding property owners and prospective employees*". We believe that the report only shows that the proposal is desirable for the applicant and the neighbouring property that is owned and/or operated by the applicant. We, as neighbours, find the proposal completely undesirable. It will cause our property to lose its value. Therefore, we would submit that the municipality refuse the application.

Yours faithfully

Cheryl du Sautoy and Ian Tingle

(2020/08/03) Loretta Gillion - Re: additional note: remainder of portion 11 of

TP n. (heat
(H. Olivia)

47/49



From: James Smith <jpsmith654@gmail.com>
To: <ipage@overstrand.gov.za>
CC: <loretta@overstrand.gov.za>, <magdaleonswart@overstrand.gov.za>
Date: 31/07/2020 01:41 PM
Subject: Re: additional note: remainder of portion 11 of Farm Hemel & Aarde 587 and portion 94 of the Farm Hemel & Aarde 587

Dear Loretta,

We are writing to express our strongest possible objection to the applications on behalf of Haygrove Heaven Ltd. for departure and approval for amendment of the current conditions of land use approval. As full time residents and immovable property owners of an immediately adjacent property, we are already directly and negatively impacted on a daily basis by the current land use of Haygrove Heaven.

For the reasons articulated by Nicholas Smith Attorneys in their letter of 15 November, 2019, the proposed tremendous expansion of the intensive horticultural activities and the related expansion of building construction by a significant multiple would create an industrial enterprise which would be totally antithetical to the environmental land use values of the valley. The resulting degradation will very negatively impact ourselves, other adjacent property owners and the larger farming and tourism sector of the valley as well as the adjacent coastal communities.

We look forward to receiving a full and detailed explanation from the municipality's decisions with respect to the subject application.

Sincerely yours,

Martha M and James P Smith
Coch y Bondhu, Section 5
email: jpsmith654@gmail.com

| |
|---|
| FILE NO: <u>PN 11/587 Hemel & Aarde</u> |
| <u>PN 94/587 Hemel & Aarde</u> |
| SCAN NO: |
| COLLABORATOR NO: <u>1437345</u> |

Sent from my iPad

TP - 3 AUG 2020

TP - A Theart
(H Olivier)

48/49



From: "Chris Thompson" <basic@global.co.za>
To: "Loretta Gillion" <lpage@overstrand.gov.za>
CC: "magdaleen swart" <magdaleenswart@overstrand.gov.za>
Date: 2020/06/30 04:38 PM
Subject: Re: Additional Note : Remainder of Portion 11 of Farm Hemel & Aarde 587 and Portion 94 of the Farm Hemel & Aarde 587

Dear Loretta

Thank you for your email.

Please be advised that Mr Ian Tingle (copied in) is now the new Chairman of the Ccohybondhu Homeowners Association. Please send any further communication in this regard directly to Mr Tingle.

For the record, I would like to register my strongest objection possible to all the departures Haygrove is applying for. The reasons for this are detailed in the objections submitted to you by attorney Nic Smith and others in response to the first application by Haygrove.

I would also like to be informed of the exact reasons why the objections raised by Mr Smith and others would be ignored in the event of Haygrove being granted approval.

Thank you and kind regards

Christopher Thompson
Section 3
Portion 50 Farm 587
Hemel en Aarde
Hermanus

----- Original Message -----

From: "Loretta Gillion" <lpage@overstrand.gov.za>
To: "basic@global.co.za" <basic@global.co.za>
Cc: "magdaleen swart" <magdaleenswart@overstrand.gov.za>
Sent: 6/25/2020 9:29:42 AM
Subject: Additional Note : Remainder of Portion 11 of Farm Hemel & Aarde 587 and Portion 94 of the Farm Hemel & Aarde 587

>Dear Mr Thompson

>

>With reference to the attached e-mails, please note that it should be
>made clear to the property owners when notifying them that should they
>have any comments on either Portion 11 or Portion 94, that such
>comments be separated per application. Should the comments be combined
>this will create confusion and add to the administrative burden when
>the land use planning reports are being compiled.

>

>Hope you find the above in order.

>

>Kindly confirm receipt of this e-mail.

>

>Regards

>

| |
|-----------------------------|
| FILE NO: Ptn 5 11 9 94 |
| Hemel & Aarde 587 |
| SCAN NO: |
| COLLABORATOR NO: 14 2 58 15 |

T/P 01 JUL 2020



49/49

TP- A. Ahear
(H. Olivier)

Loretta Gillion - Att: Henk Olivier

From: "Elmarie Maree" <kerkkantoor@ngkerkhermanus.co.za>
To: <loretta@overstrand.gov.za>
Date: 19/02/2020 11:08 AM
Subject: Att: Henk Olivier

Erf 587/14

NG Kerk Hermanus
HERMANUS
7200

Town Planning (Henk Olivier)
HERMANUS
7200

| |
|-----------------------------|
| FILE NO: PIN 94 587 |
| Hemel & Aarde ✓ |
| SCAN NO: PIN 94 |
| COLLABORATOR NO: 1385245 |

PORTION 94 OF FARM HEMEL AND AARDE NO. 587 : APPLICATION FOR DEPARTURE AND AMENDMENT OF CONDITIONS OF APPROVAL : WRAP ON BEHALF OF HAYGROVE HEAVEN (PTY) LTD

We have no objections regarding the grouting of relaxcasions of building lines of Portion 94 Haygrove Heaven (Pty) Ltd.

DJ GOOSEN
NG KERK HERMANUS : CHAIRMAN : PROPERTY

20 FEB 2020



Annexure E 1/110



Project Office

Town Planning & Project Management

TP: D. Theart
(H. Olivier)

Our Reference: 19/47
Your reference: RCAL 94/587 3297/2019

1 October 2020

The Municipal Manager
Overstrand Municipality
P O Box 20
HERMANUS
7200

| | |
|------------------|---------------|
| FILE NO: | Pin 94/587 |
| | Hemel & Aarde |
| SCAN NO: | 43 |
| COLLABORATOR NO: | 1465190 |
| | |

Attention: Mr Henk Olivier

REMAINDER OF PORTION 94 OF THE FARM HEMEL EN AARDE NO 587 CALEDON. APPLICATION FOR AMENDEMENT OF CONDITIONS OF APPROVAL AND DEPARTURE

Comments and objections were received from:

- D Forster;
- Nicholas Smith Attorneys;
- R O Molony;
- C du Sautoy & Tingle;
- M & JP Smith; and
- C Thompson.

2/110

Response to objections pertaining to the agricultural activities.

| | |
|------------------|---|
| Objection | <i>"With that vast increase in building coverage it is clear that this "farm" is actually the centre of operations for the surrounding farms that Haygrove also own. It is concerning that it will be more a factory than a farm."</i> |
| Comment | A distinction must be made between the impact of the approval and implementation of this proposal and the land use rights which are sought in the planning application. |
| | <p>Impact</p> <p>The application area for which land use rights for intensive horticulture are sought is currently cultivated and covered with shade netting. The reason for this is that the changing climate coupled with wetter springs and summer negatively impact on the yield and has forced the applicant to cover the tunnels with shade cloth. The property owner envisages converting the existing shade netting with tunnels to protect the crop from rain. The approval of this proposal therefore does not constitute an actual expansion of activities currently on the subject property.</p> |
| | <p>Planning application</p> <p>The approved intensive horticulture tunnels were limited to the site development plan which was approved at the time. The proposed expansion of the approved footprint is to allow the proposed construction of horticulture tunnels in the existing fields, currently only covered with shade cloth.</p> |
| | <p>From a practical perspective, the approval and implementation of this proposal will not lead to any additional visual expansion or any additional impact apart from what can already be seen on the property which constitutes $\pm 25\%$ coverage of the subject farm. Considering this, what is applied for might be perceived as a significant increase but what is on the ground are already cultivated areas covered with a shade net which will not result in any additional development impact.</p> |
| | <p>The subject farm is not intended to be the centre of operations for surrounding farms as the intensive horticulture activities on the subject farm are of a smaller scale compared to other farms which are owned or rented by Haygrove Heaven (Pty) Ltd (Haygrove).</p> |
| | <p>The Overstrand Municipal Zoning Scheme defines a factory/industry as follow.</p> |
| | <p><i>"industry means a property, which in the municipality's opinion, is used as a factory or workshop and in which an article or part of such article is made, manufactured, produced, built, assembled, compiled, printed, ornamented, processed, treated, adapted, repaired, renovated, rebuilt, altered, painted (including spray painting), polished, finished, cleaned, dyed, washed, broken up, disassembled, sorted, packed, chilled, frozen or stored in cold storage; and includes self-storage, offices, caretaker's quarters, warehouses and breweries, distilleries and mechanical workshops or other uses which are subservient and ancillary to the use of the property as a factory but does not include noxious trade or risk activities."</i></p> |

3/10



| | |
|--|---|
| | The land uses of the intensive horticulture cannot be classified as a factory/industry which is evident when the definition above is read. This therefore nullifies the concern by the objector that the operations of the proposal are intended to be a factory. |
|--|---|

| | |
|------------------|---|
| Objection | <i>"Sprayers run from early until 10pm, with double the expansion, this will be double the odour emissions and impact the fresh air. This is concerning as the sprays used are 'mostly' organic, which has potential long term environmental and personal health impact on us."</i> |
| Comment | Spraying occurs occasionally on the subject premises and does not occur all night as insinuated by the objector. The construction of more tunnels will result that less spraying required as the proposed tunnels contribute to the protection against certain fungal diseases. Haygrove also operates according to a soft integrated pest management programme and adheres to all regulatory guidelines as is required by law. |

Response to objections pertaining to traffic and movement.

| | |
|------------------|--|
| Objection | <i>"Since moving here, we have already experienced increased traffic, namely, heavy trucks, taxis, delivery vehicles and buses who most times speed downhill right next to our house starting as early as 5am. Even when not speeding, most hit the speed bump with force, waking us up and hooting once they reach the Haygrove gate"</i> |
| Comment | Considering that the scale of land use activities will largely remain the same as existing shade netting will be converted with tunnels, a significant increase in traffic movement as projected by the objector, is unlikely. |

| | |
|------------------|--|
| Objection | <i>"The said vehicles above all omit fumes coming down the road right next to our house which is the servitude to Haygrove"</i> |
| Comment | All vehicles generally emit some fumes and it would be unreasonable to expect the vehicles which enter and egress the subject property to not generate any fumes. No additional emission of fumes is projected to occur from vehicles considering that the approval and implementation of this proposal will only entail the conversion of existing shade netting to horticulture tunnels. |

Response to objections pertaining to noise.

| | |
|------------------|---|
| Objection | <i>"Labourers often shout at each other across the tunnels, on Sundays (pre-covid, but I will start up again at Level 1), the Sunday service is exceptionally loud, carries on for a few hours at full shouting volume, not to mention the personal music from the outages that gets played at high volume at times. We hear it all as it's impossible to avoid. More buildings on the property will just increase these factors with more people around permanently"</i> |
| Comment | The objector acknowledges that the noise levels generated by the labourers have decreased post Covid 19 and this adaptation in behaviour is therefore projected to last even after Covid 19. |

4/110



| | |
|--|---|
| | The alleged pre Covid 19 noise emissions are as a result of the existing cottages and not directly blamed on the existing tunnels on the premises. There is therefore no substantive evidence to prove that the expansion of the tunnels as proposed in the application will have an adverse noise cumulative impact. |
|--|---|

| | |
|------------------|--|
| Objection | <i>"There will be considerably more noise with two and a half times more vehicles, machinery, spraying (both ground and by helicopter) and people. We already hear machines and sprayers until 10pm. The small farm road and servitude currently utilised by Haygrove are already very busy with large trucks, sewage trucks, buses, taxis and cars. Many more vehicles due to nearly tripling the size of the tunnels will create more dust (pollution) and noise and degradation of the roads."</i> |
| Comment | As stated earlier, this proposal only entails the conversion of existing shade netting to intensive horticulture tunnels which will not constitute a two-fold increase as cited by the objector which will avert the likelihood of the traffic and noise related nuisance. Notwithstanding the above, the traffic and noise impact on the subject property will be low for the following reasons: <ul style="list-style-type: none"> • The vehicles will not enter and egress the premises during the same hours but will do so during different time intervals which will spread out the movement impact which avoids high intensity vehicle movement impacts at specific time intervals; and • The farm machinery and spraying will continue to operate on different parts of the farm on a piecemeal basis which will avoid high intensity agricultural activities and the noise projected by the objector. Considering the above, the approval of this proposal is not projected to increase the discomfort levels of the objector. |

Response to objections pertaining to the compatibility of this proposal with surrounding land uses.

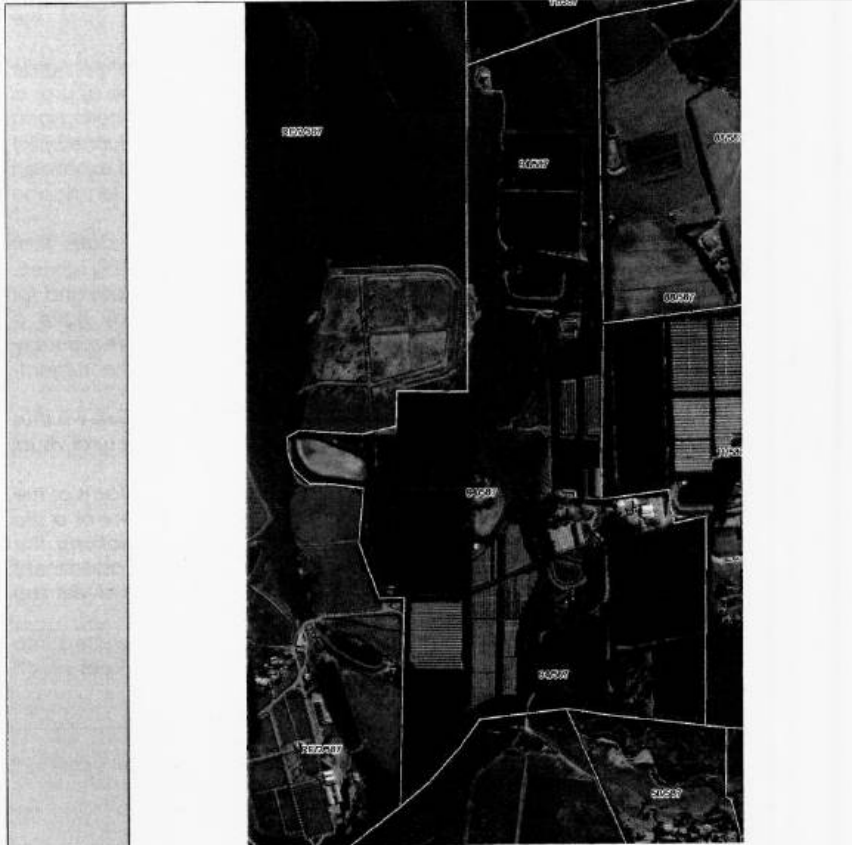
| | |
|------------------|--|
| Objection | <i>"The Hemel en Aarde Valley is an international tourist attraction with its outstanding beauty, award winning vineyards and restaurants, major cycling events and recreational activities all within reach from the world recognised "Whale Capital" of Hermanus."</i> |
| Comment | The proposed conversion of the existing shade netting sought on the subject property will not diminish/interfere with the ability of farm owners in the Hemel en Aarde Valley to contribute towards the tourism value of the region. |
| Objection | <i>"Haygrove Heaven is an eyesore on the landscape and the proposal WILL have an impact on the character and heritage of the area and potentially the value of our homes. In support of our wholesale rebuttal (above) of the applicant's planner's purported motivation of the application against the applicable legal requirements in the By-law, we direct the Municipality to the planner's</i> |



| | |
|----------------|--|
| | <p>unsubstantiated and misleading statement in paragraph 7 of the motivation.²⁴ The applicant's planner says the following there:</p> <p>"Considering that the neighbouring Portion 11 of Farm Hemel-en-Aarde 587 Caledon 587 (sic) also has intensive horticulture tunnels, the approval and implementation of this proposal is in harmony with neighbouring land uses. The neighbouring farmers have become accustomed the tunnels (sic) on the subject property and neighbouring farm. This proposed expansion will therefore not come as a surprise or upset the rural visual landscape which farmers have become accustomed to."</p> <p>It is a patent falsehood for the applicant's planner to state that "neighbouring farmers" have become accustomed to the existing tunnels. The existing tunnels are an eyesore for the residents of the area, and for domestic and overseas tourists. The existing tunnels already have a significant visual impact which will be massively and unreasonably increased if further horticulture tunnels are permitted on the subject-property.</p> <p>The applicant's planner's assertions that the proposed expansion will thus not be foreign to neighbouring property owners nor upset the rural visual landscape only have to be stated to be rejected.</p> <p>In order for the Municipality to form the correct picture of the facts of the application (and for the other reasons that motivate in favour of a site visit, as set out below in paragraphs 98 to 101 of these objections) the Municipality's official/s responsible for producing the written assessment of the application in terms of section 57 of the By-law should visit the subject-property before finalising the obliged assessment."</p> |
| Comment | <p>The areas where the shade netting is proposed to be converted into intensive horticulture tunnels are surrounded by rows of pine trees which are planted in block format as illustrated in the image below.</p> |



6/110



This will consequently reduce the visual impact of the conversion of the shade netting into intensive horticulture tunnels on the character and heritage of the Hemel en Aarde Valley and subsequently prevent the likelihood of surrounding property values from being impacted.

The municipal planner will also conduct site visits on the subject premises to assess the visual impact of exiting horticulture tunnels in conjunction with the proposed tunnels.

Objection *"Haygrove is NOT in harmony with neighbouring land use. We are on the Southern Haygrove border with all our houses facing the Haygrove property. We developed our country lifestyle houses years before Haygrove"*



| | |
|-----------------------|---|
| | <p>The first motivating factor described by the applicant's planner regarding the desirability of the application is the alleged compatibility of the application with surrounding land uses. The statement is made by WRAP that most of the farms in the Hemel en Aarde are agriculturally productive with some intensive horticulture.</p> <p>We submit that this is a fallacious statement for at least two reasons: Firstly, it is not factually correct that most surrounding properties are used predominantly for agricultural purposes. Many of the surrounding properties (including our clients' properties) are principally used for residential purposes albeit in a rural setting. Our clients' immovable properties form part of a residential estate that was constituted under a body corporate many years before Haygrove commenced intensive agricultural production inter alia using horticulture tunnels. The second reason is that the suggestion that proposed horticulture tunnels (which will cover a total of over 17ha of the subject-property, if approved) can be said to be "in harmony" with the surrounding properties is a misleading overstatement. Whilst it may be correct to assert that the neighbouring Portion 11 of Farm Hemel-en-Aarde 587 also has intensive horticulture units, that property is also owned and operated by Haygrove. The applicant's self-interest is manifest. Beyond the latter property, various other landowners who reside on immovable properties that border the subject-property would in fact experience significant disharmony (in the form of an actionable impairment to their reasonable use and enjoyment of their properties) if they were to be burdened by the significant visual impacts that will be caused by the erection of more than 175,000m² of additional and very tall plastic-clad horticulture tunnels.</p> |
| <p>Comment</p> | <p>The following farms immediately about the subject property, are used for agricultural or intensive horticulture purposes.</p> <ul style="list-style-type: none"> • Portion 2 of Farm Hemel en Aarde 587 Caledon; • Portion 45 of Farm Hemel en Aarde 587 Caledon; • Portion 88 of Farm Hemel en Aarde 581 Caledon; • Portion 11 of Farm Hemel en Aarde 587 Caledon; <p>The submission in the motivation report that the majority of surrounding land uses are for agricultural purposes is correct. Only the individuals whom the objector is representing do not engage in agricultural activities.</p> <p>It has been highlighted earlier that the pine trees which surrounds the proposed location of the intensive horticulture tunnels would reduce the visual impact concerns which are cited by the objector.</p> |

Response to safety and security related objections.

| | |
|-------------------------|--|
| <p>Objection</p> | <p>"The Safety and Security on Farms in South Africa is becoming more and more alarming at a rapid rate.</p> <p>We are already very vulnerable as our home borders Haygrove on both along the Servitude Road and Haygrove Southern Border, leaving us exposed to potential Farm attack or Robbery.</p> |
|-------------------------|--|



8/110

| | |
|----------------|--|
| | <i>The nature of Haygrove operation exposes us to many people that are not employed by Haygrove Operation. This expansion will only increase the risk of further potential danger to us."</i> |
| Comment | The concern relating to alarming rates of safety and security on farms is a valid one. The conversion of the existing shade netting to intensive horticulture tunnels will result in retaining the number of employees on the subject farm who are surveillance in the rural area which currently serves as a crime combatting measures. |

Response to objections relating to migratory patterns.

| | |
|------------------|--|
| Objection | <i>"Haygrove employ migrant/casual workers who come down from other parts of the country in search of work and do not always return after the season ending."</i> |
| Comment | Haygrove is primarily concerned with employing available labour in Hermanus and cannot be held accountable for the broad migratory patterns of employees outside of work. The objector has also not illustrated why the current migratory patterns of employees are a problem. |

Response to objections pertaining to the impact and implication of the approval and implementation of this proposal.

| | |
|------------------|---|
| Objection | <i>"Although the Management at Haygrove have been accommodating when we have raised any of the above issues when they have become out of hand, please note that it is a major concern that this expansion will potentially become a difficult one to manage from a Neighbours point of view due to sheer scale of the business."</i> |
| Comment | The objector has correctly pointed out that the management of Haygrove has taken reasonable measures to be accommodating to neighbours regarding the intensive horticulture activities which are occurring on the subject property. This accommodating nature of the management will continue with the approval and implementation of this proposal which will ensure that activities are managed in a way which does not infringe on the ability of the objector to occupy the respective property in comfort. |

| | |
|------------------|--|
| Objection | <i>The report states that "The tunnels will not bring about additional noise." An additional 11ha of tunnels (from 5ha) will nearly triple the requirement for spraying, which will significantly increase the unpleasant noise levels currently experienced by neighbouring properties both during the day and late into the night. There will be increased traffic in the form of taxis, large trucks and buses down the side of our property which will certainly add to the noise levels. The soft fruits do not smell bad or emit any offensive fumes". This may be the case, however, the regular crop spraying, either by ground (tractors with very loud spray mechanisms) or helicopter does emit very offensive fumes. More tunnels mean more spray which means more fumes."</i> |
|------------------|--|



9/110

| | |
|------------------|--|
| Comment | As discussed earlier, this proposal only entails the conversion of existing shade netting into intensive horticulture tunnels which will not result in the tripling of the spraying requirements as highlighted by the objector. The construction of more tunnels will result that less spraying is required as the proposed tunnels contribute to the protection against certain fungal diseases. Haygrove also operates according to a soft integrated pest management programme and adheres to all regulatory guidelines as is required by law. |
| Objection | "2.1 mentions the neighbouring farm, Portion 94 of Farm 587 also having intensive agriculture tunnels, hence implying "harmony with neighbouring land uses." This statement is disingenuous as Portion 94 has the same owners." |
| Comment | The fact that the subject property and the neighbouring one are in the ownership of the same company with intensive horticulture does not nullify the validity of the statement that the submitted proposal is in harmony with surrounding land uses as asserted by the objector. |
| Objection | "The neighbouring farmers have become accustomed to the tunnels. This will never be the case and it is unbelievable that the statement has even been considered." |
| Comment | The statement implies that the visual and activity impact of the existing intensive horticulture tunnels is a phenomenon which neighbours have become accustomed to and not foreign. |
| Objection | "This proposed expansion will therefore not ... upset the visual landscape. Any person who visits the valley is astonished and disappointed to see the blot on the landscape of the otherwise beautiful Hemel en Aarde Valley made by the ugly plastic black shade cloth tunnels. This disappointment is shared by the neighbouring farmers. The further suggestion by the applicant that the "visual colour diversity which the approval and implementation of this proposal will bring about in the Hemel en Aarde is desirable and is one of the draw cards which attract tourist to the area" is also a wholesale fallacy. It only has to be stated to be rejected. The suggestion that visual diversity in the valley will be enhanced by the erection of plastic-covered tunnels and in turn, that this "diversity" will draw tourists to the area simply does not stand scrutiny as an objectively motivated criterion It is, quite simply; preposterous." |
| Comment | The assertion that the existing tunnel are a blot on the landscape of the Hemel en Aarde is an exaggeration for the following reasons: <ul style="list-style-type: none"> • What sets the Hemel en Aarde apart from other agricultural regions such as those who only farm with wheat which creates a rural fabric dominated by one yellow colour is the diversity of agricultural activities which create a mixed colour rural landscape texture. The existing intensive horticulture forms part of this peculiar valued rural colour texture; |



10/110

| | |
|--|---|
| | <ul style="list-style-type: none"> The approval of the expansion sought will therefore enhance this rural texture which will contribute towards the enhancement of the valued rural visual landscape which will benefit the objector. <p>The notion that the existing and proposed expansion of the horticulture tunnels constitute a disappointing blot on the visual landscape of the area is unfounded.</p> |
|--|---|

| | |
|------------------|--|
| Objection | <i>"To the extent that the applicant elects to pursue the application, we submit that the Municipality must oblige the applicant first to produce an appropriately detailed visual impact assessment by an appropriately qualified visual impact specialist before the properly supplemented application can proceed to the decision-making stage. The visual impact assessment should also be circulated with all parties with an interest in the matter (including the objectors we represent) so that they are afforded a proper opportunity to review that assessment and to provide their comments in that regard."</i> |
| Comment | The submitted application was circulated by the Overstrand Municipality to a variety of state departments and there was no request for a visual impact assessment which nullifies the request by the objector. |

| | |
|------------------|---|
| Objection | <p><i>"Paragraph 8 on the rural environment states that "this proposal is in harmony with the rural environment which is valued by the residents." The rural environment made up of orchards and vineyards and animal farms of the Hemel en Aarde Valley is valued by the residents, however as residents we do NOT value the already ugly 5ha of tunnels on the applicant land and are extremely concerned about the visual impact of another 11 ha of tunnels. From the resident's point of view, the applicants farm does not add any value to the valley.</i></p> <p><i>As regards the provisions in the WCLPGRA relating to the development's reinforcement of the farm precinct and the reflection of similar scale, the objectors submit that the proposal is massively over-scaled. The fact that the intensive horticulture tunnels are "lower than the 12m height restriction" in no way derogates from the significant scale of the proposed erection of the tunnels in question. The fact that there may be other intensive agricultural land uses in the Hemel-en-Aarde rural area (none of which are explained in any detail in the application) does not represent harmonious scale in the area. To the contrary, the proposal to develop the subject-property by the installation of some 17,5ha under intensive horticulture tunnels."</i></p> |
| Comment | What the objector negates is that there are other farms in the Hemel en Aarde such as Portion 1 of Farm Karweyders Kraal 584 Caledon and Portion 7 of Karweyders Kraal 584 Caledon which also have intensive horticulture tunnels. These farms form part of the of the rural environment of farms in the Hemel en Aarde. The objector might not see any value in the existing and proposed expansion of the intensive horticulture activities but the people who are employed and were rescued from a state of idling around as well as other tourists who find the visual contribution of the tunnels towards the rural landscape visually |



11/110

| | |
|--|--|
| | mesmerizing see value in it. The refusal of this proposal can therefore not be based on the objectors assertion which can easily be contested. |
|--|--|

| | |
|------------------|---|
| Objection | <i>"Paragraph 12.2: The fact that the "tunnels will not exceed the permissible 12m height restriction" most certainly are "visually not imposing" due to their coverage and black colour and cannot in any way promote any "visual diversity". That the application can even mention that the tunnels are "desirable" and are "one of the drawcards which attract tourists to the area" is hypothetical in extreme and absolute rubbish. Tourists are shocked and always comment on how ugly the tunnels are and how they detract from an otherwise beautiful area"</i> |
| Comment | The tunnels promote visual diversity as some of the tunnels are grey and black which add colours in the Hemel en Aarde in addition to the diversity of agricultural land uses which add peculiar colours on the rural landscape. The statement by the objector that tourists are shocked by how the tunnels look is one sided as some tourists appreciate the visual contribution of the tunnels in the Hemel en Aarde. |

| | |
|------------------|---|
| Objection | <i>"The subject site will NOT be "visually enhanced" by adding an extra 11 ha of tunnels covered by plastic and shade cloth."</i> |
| Comment | It has been mentioned before that the tunnels add a colour diversity in the Hemel en Aarde rural area which will contribute towards the enhancement of the rural visual fabric of the area. |

| | |
|------------------|---|
| Objection | <i>"It is erroneous to state that the tunnels will "not be visually imposing". The tunnels will only be "in synchrony with scale of similar structures" on ONE neighbouring farm (Portion 11) which is owned and/or operated by the same company, therefore cannot be used a reason to motivate the expansion."</i> |
| Comment | The motivation report has motivated that the consistency of the proposed expansion of the horticulture tunnels does not hinge on the consistency thereof with surrounding land uses but based on the consistency with relevant considerations prescribed by the By-Law. |

| | |
|------------------|--|
| Objection | <i>"The applicant has also not placed a full and proper picture before the Municipality of the fundamental incompatibility (and therefore, the inherent lack of desirability) of the development proposal when considered against existing surrounding land uses. In support of this assertion, we point out that the applicant has provided no information to the Municipality regarding the significant likely increase in noise emissions on the subject property if the expansion is to proceed, including noise generated by machinery; and by the transport used by the property owner to bus seasonal contract workers to the subject property from Hermanus and its environs. There will also be a likely increase in the odours emitted from the property including emissions from crop spraying; vehicle use; and toilets for the seasonal contract workers (which have proved in the past to be entirely insufficient, as one of our clients' principal concerns relates to seasonal workers relieving themselves on surrounding properties</i> |
|------------------|--|



12|110

| | |
|------------------|--|
| | <i>with no regard to the accompanying health hazard). It should also be noted that our clients regularly find evidence of contract workers trespassing on their properties, including snares that have caught clients' domestic animals; and human waste as well as litter that is deposited on their properties."</i> |
| Comment | <p>It has been discussed that this proposal only entails the existing shade netting being converted into intensive horticulture tunnels which will practically not entail an increase in the footprint of horticulture activities.</p> <p>The property owner employs Boland Toilet Services to attend to the sewage disposal on the property which will avert seasonal workers relieving themselves in surrounding properties.</p> <p>The concern relating to allegations of trespassing can be resolved through discussions between the objectors and Haygrove.</p> <p>The objector cites that his/her pets were caught in snares on the subject property but does not acknowledge that the objector's pets are not supposed to be roaming on the subject property. If the objector had monitored the movements of his/her pets to not extend beyond the cadastral boundaries, this would not be a problem.</p> |
| Objection | <i>"The applicant's assertion that the proposal to develop intensive horticultural tunnels on an additional 11,6737ha of the subject-property "will not be visually imposing" is simply fallacious. WRAP is somewhat coy in describing the likely maximum height of the proposed tunnels, preferring instead to confirm that they will not exceed the permissible 12m height restriction. In the absence of a proper description of the specific height of the proposed tunnels, we must assume that they will be close to the maximum permissible height (if not at that height)."</i> |
| Comment | Plan 6 is the photo plan, which was submitted with the town planning report, illustrates that the tunnels are approximately 6m high which is not close to the maximum permissible height. |
| Objection | <i>"As regards the third factor described by WRAP in purported motivation of the application (alleged positive economic impact) we point out on behalf of our clients that this has been motivated exclusively (albeit entirely superficially) from the applicant's perspective only."</i> |
| Comment | The motivation report highlights that the approval and implementation of this proposal will increase the number of employees and increase the contribution of taxes and rates. The economic benefits which would be derived from the approval and implementation of this proposal have been motivated from the perspective of how the public will benefit. |
| Objection | <i>"The applicant purports to conflate the alleged "visual enhancement" of the subject property (which we have already shown to be an indefensible proposition); and growth of the taxable revenue base that would be achieved if the applications succeed. The suggestion is made that</i> |



| | |
|------------------|---|
| | <i>burdening the subject-property with an additional 11,67372ha under intensive horticulture tunnels is visually enhancing. This only has to be stated to be rejected. The suggestion that intensive horticulture tunnels covered in artificial material is an enhancement on the current milieu is entirely irrational and is motivated only from the applicant's perspective."</i> |
| Comment | The submitted planning report has not exclusively been motivated from the applicant's point of view but the contents were informed by the spatial directives of relevant planning policies. It is undeniable that the property owner will generate an additional income from the approval and implementation of this proposal but the public good in terms of taxation and employment generation has also been motivated. |
| Objection | <i>"Any benefit that might accrue to the State in respect of enhanced tax revenue from the landowner's expanded activities is entirely outweighed by the impacts that the proposed expansion would have on neighbouring landowners, including our clients."</i> |
| Comment | The only additional impact which neighbours might experience is the conversion of the existing shade netting into intensive horticulture tunnels which is currently substantially reduced by the existing pine trees which have been intentionally planted in rows. Considering this the benefits which will be derived from taxation far outweigh any probable impact which are cited by the objector. |
| Objection | <i>"The applicant suggests that the underlying purpose for the application is to allow the owner of the subject-property to be granted "the most appropriate land use rights to intensify agricultural intensification as prescribed by the WCLPGA "26. It is suggested that the intensification will be achieved by increasing capital investment and labour in order to raise the yield of produce on the subject-property. The objectors submit that this is an entirely one-sided and subjective analysis by WRAP. WRAP's analysis is not supported by any objectively verifiable evidence that intensified land use on the subject-property is sustainable and therefore appropriate. As is shown in these objections with reference to the objectively determinable desirability of the application, the application is inherently undesirable when all relevant factors are properly considered, and rationally accorded their appropriate weight. As regards the applicant's statement that the proposal does not entail the fragmentation of the agricultural land uses on the property, that may be correct but again, is motivated exclusive/ from the applicant's (subjective) perspective and self-interest.</i> |
| Comment | Intensive horticulture entails an increase in agricultural production without increasing land coverage. The conversion of agricultural land to intensive horticulture is therefore necessary in light of problems related to food security, human population growth, dwindling land suitable for agriculture, high crop yields and maintaining soil health. The collective benefits of intensive horticulture therefore constitute sustainable agricultural practices which are contextually appropriate. |



14/110

| | |
|--|--|
| | The motivation that the proposal does not fragment agricultural land is not purely motivated from the self-interest perspective of the client but informed by policy prescripts. |
|--|--|

| | |
|------------------|---|
| Objection | <i>"The comparative strengths of the Hemel-en-Aarde valley relate not only to high agricultural output from a variety of agricultural initiatives including cultivation of grapes and wine production but also the value of the area as a tourist destination. The application is unlikely to capitalise in any material way on the latter income-earning activities and in fact will in all reasonable likelihood derogate from the tourism attractions currently on offer."</i> |
| Comment | The proposed conversion of the existing shade netting to intensive horticulture expansion is in harmony with the agricultural land uses prevalent in the Hemel en Aarde which are cited by the objector. The objector has not provided any substantive evidence to motivate how this proposal will derogated from the tourism related land uses of the surroundings. |

| | |
|------------------|--|
| Objection | <i>"The application does not meet the imperatives of the SDF, because it does not establish that the proposed expansion (objectively viewed) is to the benefit of all affected residents within the area. The application is motivated almost exclusively from the self-interested perspective of the applicant, as owner of the subject-property. As such, the application cannot be said to be aligned with the applicable policy imperatives articulated in the SDF."</i> |
| Comment | The motivation report has also pointed out the relevant clauses which the submitted application is consistent with the SDF. |

Response to objections pertaining to service-related considerations

| | |
|------------------|---|
| Objection | <i>"Water: The application states that "the proposed tunnel expansion is aligned with existing water rights capacity." The open agricultural land that is proposed to be utilised for intensive horticultural purposes is currently not being farmed on and hence none of the current applicants water allocation is being used for that land. Adding an excess of 11 ha of intensive planting is going to require a significant amount of extra water. In addition, the use of tunnels negates the effect of rainwater on the crops which means that the crops would need to be irrigated by run-off water saved in dams, or the Onrus river, for irrigation purposes. The Onrus river is the main supply of water to the De Bos dam which is the main supply of water to Hermanus and its surroundings. Currently, this supply is under severe pressure. Damming up only exacerbates the Hermanus water problems. The river is already reduced to a mere trickle in the dry summer months. We would suggest that the proposal provides more details on current water usage and proposed water usage in the future."</i> |
| Comment | This proposal has been circulated to the Breede-Gouritz Catchment Management Agency and no negative comments have been forwarded to WRAP regarding water related considerations of the submitted proposal. |



15/110

| | |
|------------------|---|
| Objection | <p>"Boland Toilet services and sewage trucks enter and leave the farm on an extremely regular basis. Having 3 times more tunnels, hence more workers and more sewage requirements, will require even more trucks which will add to offensive odours and more noise and more traffic.</p> <p>"The description of the proposed development's water-related impacts is superficial in the extreme. It does not put the municipal decision-maker in any position whatsoever to evaluate the impacts likely to be occasioned by water use. The application baldly states the following, under the head "Water":</p> <p>There are historic water rights which exist on the subject property. The proposed tunnel expansion is aligned with the existing water rights capacity. The existing agricultural fields will be converted to intensive horticulture and there will be no expansion of the exiting (sic) agricultural fields. This will ensure that the extraction of water does not exceed existing capacities.</p> <p>No objectively verifiable proof of the propositions set out above is provided by WRAP or by Haygrove. We submit that the Municipality is entitled to such information in order to make a substantively rational (and therefore lawful) decision on whether the proposed water abstraction is not only "within existing capacities" as WRAP would have it, but also that those abstraction (and storage) capacities are properly authorised. This is particularly relevant to the applicant's compliance with the conditions in the Municipality's written approval dated 9 February 2016 (the first document included as part of annexure "D" to WRAP's application dated 12 August 2019), and in particular, condition 3(g) of the Municipality's approval read with annexure 1 to that approval.</p> <p>We submit that the Municipality will have to satisfy itself as to Haygrove's compliance with the terms and conditions of the land use planning approval granted on 9 February 2016 (including its validity period) before Haygrove can legitimately expect the Municipality to consider the current application delivered by WRAP in August 2019."</p> |
| Comment | <p>It has been stated earlier that the approval of this proposal will only entail the conversion of the existing shade netting to intensive horticulture and not a substantial increase in activities.</p> <p>Notwithstanding the above, Haygrove prides itself in the fact that the sewage services provided by Boland Toilet services are hygienic and without any excessive offensive smells. The objector can rest assured that the current sewage volumes will not alter the sound sewage management conducted by Boland Toilet services.</p> |
| Objection | <p>"What is also notable about the applicant's purported motivation as currently framed is the wholesale omission to deal with aspects and likely impacts that are centrally relevant to the desirability enquiry obliged by law of the Municipality, with particular reference to the impacts likely to be suffered by the objectors in the event that the application is approved by the Municipality. These include (but are not limited to) the following:</p> |



16/110

| | |
|----------------|---|
| | <ul style="list-style-type: none"> • The wholesale failure by the applicant to address the issue of sustainable water supply to the subject-property for purposes of the expanded intensive agricultural activities envisaged by the applicant, including proof of the applicant's rights to water supply and water use to meet its likely demand. We submit that to the extent that the applicant pursues the application, the Municipality should oblige the applicant to produce an appropriately detailed analysis of the existing and proposed operation's water abstraction, storage and use patterns, and should provide written proof to the Municipality that the applicant holds the relevant statutory water use rights in respect of those uses; and • the impact of the proposed relaxation of the building lines on the respective obligations of the owner of the subject-property, and adjoining and proximate neighbours, in terms of the National Veld and Forest Fire Act. |
| Comment | <ul style="list-style-type: none"> • The Overstrand Municipality has circulated the application to BGCMA for comments on water related considerations which will inform the planning decision; and • Haygrove did a fire risk assessment which was conducted by an independent specialist consultant where risk mitigation measures were implemented as a result of the incident cited by the objector (refer Annexure A). |

Response to objections relating to procedural considerations.

| | |
|------------------|---|
| Objection | <p>"Firstly, we believe that this application should not be processed without considering the separate application for Portion 11 of Farm 587. Both these properties are owned and/or operated by the same company. They are next door to each other and affect the neighbours and surrounding farms as one entity. The total expansion of tunnels on both farms would be in excess of 31 ha and total area of tunnels under plastic and shade cloth after expansion would be in excess of 52ha."</p> |
| Comment | <p>The Overstrand Municipality is considering the separate application which was submitted by WRAP for Portion 11 of Farm Hemel en Aarde 587 Caledon in conjunction with this application and will make a decision which considers the holistic impact and implications of the approval and implementation of the proposal as requested by the objector.</p> |
| Objection | <p>"We submit that the material circumstances pertaining to the application (first delivered by WRAP to the Municipality in August 2019 and on which our clients are now requested to provide their comments and objections) have changed materially in the past 11 months and in particular, in the last 6 months by virtue principally of the impact of the Covid-19 pandemic, and its massive negative impact to date on global and domestic economies.</p> <p>We submit that the belatedly circulated application must be properly supplemented not only in respect of the materially changed circumstances since the application was first delivered to the Municipality, in mid-August 2019, but also in respect of full and detailed</p> |



| | |
|-------------------------|---|
| | <p>response to the objections set out in this document, and any other material objections received. The application, once appropriately supplemented, should commence afresh and be advertised accordingly for comments.</p> <p>"We submit that this is the only legally defensible approach that the Municipality can take in the circumstances, based on the Municipality's failings to date by the omission to ensure proper and timeous notification of the application to objectors within a reasonable period of the Municipality's receipt of the application. Requesting comments on the application almost one year after it was lodged is legally indefensible because the vintage of the application means that it does not present a full and contemporaneous motivation on the merits. That has the result that the decision-maker cannot be in possession of all the facts relevant to the merits of decision.</p> <p>The Municipality is specifically enjoined by the By-law to consider "the procedure followed in processing the application for purposes of exercising its decision-making functions in a manner that is constitutionally sound. In this instance, we submit that the procedure we have spelled out above should be followed in this instance, both because of the passage of time since WRAP delivered the application and because of the materially changed circumstances since then and in particular, since early March 2020 and the first documented arrival of the Covid-19 virus in South Africa."</p> |
| <p>Comment</p> | <p>The shift in economic circumstances caused by Covid 19 are undeniable. It is submitted that Covid 19 has not had any impact on the agricultural output of the subject farm as Haygrove was allowed to remain operational even during periods of the most restrictive regulations being in place. Considering the above, the projected growth of the intensive horticulture for the subject property has not materially changed which does not invalidate any aspects of the application which were submitted prior to Covid 19. This therefore nullifies the request by the objector that the submitted application be supplemented or commence afresh considering that the contents of the motivation are still relevant post Covid 19. There are also no provisions in the By-Law which stipulates that a change in the general economic climate may necessitate the supplementation of a motivation report and fresh commencement of a planning application and public participation process. There is therefore no legislative grounds which rationalise what is sought by the objector.</p> <p>The impact of the Covid 19 regulations has caused considerable delays in the public participation process. As stated earlier, the economic meltdown cause by Covid 19 has had minimal impact on the agricultural output and activity of the subject farm which makes the merits of the motivation report submitted prior to Covid 19 still relevant.</p> |
| <p>Objection</p> | <p>"On the facts and circumstances of the application, we submit that the Municipality's officials and the chairperson and members of the Municipal Planning Tribunal (or any official delegated to make the</p> |



18/110

| | |
|----------------|---|
| | <p>decision that is the subject of these objections) must undertake a site visit of the subject-property and its surrounds in order fully to apprise themselves of the current intensive agricultural operations on the subject-property, and the significant and objectionable impacts that would be caused to the subject-property's neighbours and other proximate landowners in this part of the Hemel-en-Aarde valley if the development proposal envisaged in the application is authorised to proceed by the Municipality.</p> <p>The Municipal officials' powers to enter land or a building for purposes of assessing an application made in terms of the By-law, and in order to prepare the written assessment of the application contemplated by section 57 of the By-law are set out in section 60."</p> |
| Comment | The Overstrand Municipal planners are diligent and tend to conduct site visits where the findings thereof are used to inform the recommendation made to the Municipal Planning Tribunal. |

Response to objections pertaining to economic and property value related considerations

| | |
|------------------|--|
| Objection | "Paragraph 12.13 on Economic Impact states that "intensive horticulture is more labour intensive in comparison to other agricultural land use". This statement is almost a direct contradiction of the statement in paragraph 6 which states that "workers occasionally work in the tunnels for a short time." Which statement should you believe? Many of the workers are seasonal workers hence only work for a short time of the year." |
| Comment | Every square meter of intensive horticulture tunnels is more labour intensive compared to every square meter of conventional agriculture due to plants growing faster and having to be replanted more frequently as the temperature and conditions in the tunnels are manipulated to be more ideal for the growth of the produce. The workers are not working in each tunnel everyday but rotate work in between different tunnels which results in the time spent in each tunnel not being the whole day but different time intervals. The submission relating to the labour intensiveness of the horticulture tunnels and short rotational times spent in the tunnels are an accurate depiction of the reality. |
| Objection | "In order to sustain an argument that there will be a positive economic impact, the applicant is obliged to provide more information than a mere bald statement to the effect that the approval and implementation of the application will substantially increase the number of people employed on the subject-farm, thereby reducing poverty in the area. Without the provision of specific and detailed information regarding (at the very least) the number of likely future employees; an indication of the wages that those prospective employees will earn, and all and any other relevant detail in support of the assertion that the applicant will contribute to the reduction of poverty, this so-called motivating factor cannot be sustained. There is no evidence to support it." |



19/110

| | |
|----------------|--|
| Comment | Haygrove has spent R90 329 082 over the past 12 months in Hermanus on local salaries, wages and materials and very few companies in Hermanus have such a substantial wage bill. The employees in turn have 2 or 3 dependants with whom salaries are shared for survival which constitutes a significant economic impact in Hermanus which should not be understated. Haygrove also provides employees with necessary medical care via a registered nurse to ensure that employees are quickly attended to in times of illness and transported to the nearest hospital in cases of serious emergencies. |
|----------------|--|

| | |
|------------------|---|
| Objection | <i>"The substantive importance of our client's objection to the applicant's purported motivation of positive economic impact has been underscored by the economic impacts of the Covid-19 pandemic. The applicant will have to be much more candid with the Municipality regarding the current economic situation (in particular, job creation and retention) if the application is to have any reasonable prospect of success once supplemented, and re-advised for public comment on the new and material information contained therein."</i> |
| Comment | The property owner has retained employment opportunities during the Covid 19 as there has been no prohibition placed on agricultural trade. Business is booming and the approval and implementation of this proposal will substantially increase employment opportunities. |

| | |
|------------------|--|
| Objection | <i>"The applicant provides no detail whatsoever as to the quantification of the economic proceeds to be shared with workers on the subject property (who are engaged as seasonally used independent contractors by the landowner, rather than formally employed). As we understand the current situation, and the impacts of the Covid-19 pandemic, the applicant has in fact retrenched or otherwise laid off a significant proportion of its workforce."</i> |
| Comment | As state earlier, Haygrove has spent R90 329 082 in the past 12 months on wages and materials. The farm was operational during the lockdown and no retrenchments occurred. |

| | |
|------------------|---|
| Objection | <i>"We submit that this is yet another aspect on which the applicant must substantially supplement its application, with particular attention to the changes in its business since March 2020 in light of the adverse impacts caused by the Covid-19 pandemic."</i> |
| Comment | The Covid 19 regulations have had no impact on the ability of the subject farm to increase agricultural output. Considering this, no need has arisen for the scale of the submitted application to be reduced. |

| | |
|------------------|---|
| Objection | <i>"The applicant's suggests that a very significant increase in the infrastructure on the subject property (by the addition of a threefold increase in multi-coloured, plastic-covered intensive horticulture tunnels), and the associated expansion in agricultural activities that will follow on the expansion, do not impact on neighbours' reasonable rights"</i> |
|------------------|---|



| | |
|----------------|---|
| | <p>to the use and enjoyment of their property. That suggestion must be rejected because it is nonsensical.</p> <p>Given that the applicant seeks the enhancement of the existing 'envelope' of development rights that currently apply to the subject property, by way of:</p> <ul style="list-style-type: none"> • the amendment of condition 3(a) in the approval granted by the Municipality in writing on 9 February 2016; • the significant relaxation of the side building lines on all four boundaries of the subject property in order to allow for the development of significant infrastructure there; and • a departure to exceed the maximum allowable footprint of buildings on the site (from 5,000m² to over 175,000m²). <p>We submit that the applicant's application clearly obliges the Municipality to have full and proper regard inter alia to the likely diminution in the value of the objectors' properties that would follow on the grant of enhanced development rights to the owner of the subject property. No such analysis has been provided by the applicant. We submit that this omission is fatal to the applications' prospects of success. The applicant's planner's bald statement to the effect that there will be no infringement on existing land use rights (including the objectors' right to the reasonable use and enjoyment of their properties) is simply fallacious in the circumstances."</p> |
| Comment | <p>As stated earlier, the practical impact of the approval and implementation of this proposal would result in the conversion of the existing shade netting to horticulture tunnels.</p> <p>The following factors have an impact on property values.</p> <ul style="list-style-type: none"> • Location; • Supply and demand; • Interest rates; • Economic outlook; • Property market performance; • Population and demographics; • Size and facilities; • Aesthetics; • Renovation potential; • Investment potential; and • Energy efficiency. <p>The objector pins the likely diminution on the property values of the surrounding properties without analysing the probable impact of the factors listed above on property values. The pinning of property values on the approval and implementation of this proposal on a single application negates a holistic set of factors which determine property values.</p> <p>The other reason for why no analysis was made of the likely impact of the approval and implementation of this proposal on property values is the following excerpt from Section 7 (vi) SPLUMA.</p> |



21/110

| | |
|------------------|---|
| | <p>SPLUMA highlights the following in) of SPLUMA highlights the following;</p> <p><i>"A Municipal Planning Tribunal considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property is affected by the outcome of the application."</i></p> <p>Property value therefore has no bearing on the outcome of an application hence the negation of this aspect in the motivation report.</p> |
| Objection | <i>"The suggestion that inclusive economic growth will be promoted by the application is not suitably motivated by the applicant. Although our clients are clearly alive to the fact that the owner of the subject-property would benefit substantially from the increased production envisaged by the addition of intensive horticulture tunnels on a further 11,6737ha on the subject-property, there is no explanation as to how that economic growth would benefit parties other than the property owner (and to a lesser extent, the workers who might be contracted as a result of the expansion)."</i> |
| Comment | The approval and implementation of this proposal will retain the tax which is currently collected from the subject property while the refusal thereof will diminish the agricultural output and taxes collected by SARS. The taxes are crucial for service delivery and benefit the public, including the objector. |
| Objection | <i>"Furthermore, the applicant provides no indication whatsoever as to the share of that income that would be derived by the seasonal contract workers. It is therefore facile and misleading to suggest that the application promotes sustainable rural development, or that such development is appropriate and inclusive."</i> |
| Comment | The share of the employee's income from the gross income of the company fluctuates depending on the crop yield and fluctuating rand value in relation to international currencies. It would be difficult to provide the objector with reliable statistics in this regard due to the fluctuating nature thereof. |
| Objection | <i>"There is also no objectively verifiable proof provided with the application in respect of the engagement of employees as opposed to the ad hoc retention of (and more recently, the termination of contracts with) contract workers. To the extent that the applicant's planner suggests that the rural and urbanised poor who will allegedly benefit from the implementation of the development will enjoy tangible benefits, there is no evidence put up in support of the application that verifies that assertion."</i> |
| Comment | The urbanising poor have been and will continue to be the be the largest beneficiaries of the of the approval and implementation of this proposal. Most employees are the urbanised and enjoy tangible income benefits from the intensive horticulture operations on the subject property. |



Response to an objection pertaining to food security

| | |
|------------------|--|
| Objection | <p><i>"Paragraph 12.4 on Need: Berries, soft fruits and fynbos do not "increase and enhance food security". They are luxury items that mostly get exported to other countries.</i></p> <p><i>As regards the fourth factor described by WRAP in purported motivation of the application, our clients take issue with the applicant-planner's statement that there is therefore a definite need for the OM to approve this application so that the owner of the subject property can contribute to increasing and enhancing food security. The fact of the matter is that the applicant produces premium soft fruit (berries) which are principally destined for the export market as a premium fruit product. To suggest that the Municipality approving the application will ensure the owner of the subject-property's contribution to increasing and enhancing food security is overstated."</i></p> |
| Comment | <p>The berries and soft fruits are exported to other countries and contribute to the food security of other parts of the world. Berries and soft fruits are high in a variety of vitamin content which is crucial for the health of consumers and for this reason cannot be classified as a luxury but rather as a necessity.</p> |

Response to objections pertaining to environmental considerations.

| | |
|------------------|--|
| Objection | <p><i>"Paragraph 12.6 on Environmental Impact: Invasive Alien Pine trees are planted between the blocks of tunnels to hide the ugly black shade cloth. The pristine fynbos on the surrounding mountain is full of young pine trees which have grown in last 4 years. Before that the vegetation was pristine indigenous fynbos. While other farmers in the area are trying to remove the invasive aliens, the applicant is planting more of them. The applicant may argue that the young pine trees are growing on neighbouring properties, but the neighbours have no control over where the seeds will blow and land. The pine trees also utilise a significant amount of water which is the run-off water supplying ultimately supplying the Onrus River which used to fill the De Bos Dam, one of Hermanus water supply. Fires in the area are also a grave concern, and these pines also exacerbate the problem."</i></p> |
| Comment | <p>The pines planted by Haygrove for windbreaks are coastal beefwoods and not the same spreader pine species as implied by the objector. Furthermore, Haygrove conducts alien clearing on an annual basis across its entire property. No farmer has any control over wind direction the seeds which the wind blows. It is however the responsibility of each farmer to conduct the clearance of alien vegetation on respective farms.</p> |

Response to objections pertaining to the constitutional transformation imperative of the state.

| | |
|------------------|--|
| Objection | <p><i>"We think that the "implementation of the constitutional transformation imperatives of the state" should be investigated more thoroughly and more detail should be supplied in this regard."</i></p> |
|------------------|--|



| | |
|----------------|--|
| Comment | The constitutional transformation imperative of the state is to create an enabling environment for farmers to increase agricultural output and simultaneously increase employment opportunities. The consistency of the submitted proposal in conjunction with this has been thoroughly motivated. |
|----------------|--|

| | |
|------------------|---|
| Objection | <p><i>"The sixth criterion analysed by the applicant's planner, purportedly in motivation of the application is under the head "Environmental impact The applicant's planner submits that no activities listed in terms of the National Environmental Management Act ("NEMA") are triggered by the development proposal. The applicant's submission is that the proposed intensive horticulture tunnel expansion is not located on the environmentally sensitive part of the subject-property (with reference by the applicant to a plan appended to the application as Plan 5). On behalf of our clients, we submit that the purported motivation is both superficial and entirely misplaced. The correct enquiry that should have been made by the applicant's planner relates to whether the jurisdictional requirements of any of the listed activities respectively set out in the NEMA EIA Regulations' three Listing Notices are triggered on the facts of the application.</i></p> <p><i>In the circumstances we submit that it behoved the applicant's planner to analyse the facts of the proposed intensive horticulture expansion and the receiving environment in the areas where the new tunnels are proposed in order to establish whether any NEMA-listed activities are triggered, and then to obtain written confirmation from the competent authority responsible for administering NEMA and the NEMA EIA Regulations of the applicant's assertion that the expansion does not require environmental authorisation.</i></p> <p><i>We have no doubt that the Municipality will ensure that the necessary enquiry is made to the provincial Department of Environmental Affairs and Development Planning (by the applicant, and at the behest of the Municipality before the latter can progress this application) in order to confirm unequivocally whether NEMA-listed activities are triggered on the facts of the proposed expansion. If NEMA-listed activities are triggered on the facts, then the applicant will be obliged to undertake the necessary environmental assessment procedures stipulated under NEMA read with the NEMA Regulations, and to obtain environmental authorisation before the Municipality can decide the land use applications on their merits."</i></p> |
|------------------|---|

| | |
|----------------|---|
| Comment | The Overstrand Municipality has circulated the planning application to Department of Environmental Affairs and Development Planning for comments related to environmental considerations. |
|----------------|---|

| | |
|------------------|---|
| Objection | <i>"Whilst it is correct that the State's transformation imperatives include enabling farmers to achieve economic growth and sharing the proceeds of that growth with their employees, the baldly stated and unsupported suggestion that this will occur on the facts of this matter must be rejected</i> |
|------------------|---|



| | |
|----------------|---|
| | <i>by the Municipality because the statement is supported by no objectively verifiable evidence."</i> |
| Comment | The approval and implementation of the expanded intensive horticulture tunnels will invariably lead to additional employment opportunities being generated. This is supportive evidence of the state enabling the implementation of the constitutional transformation imperative. |

Response to objections pertaining to health-related considerations.

| | |
|------------------|--|
| Objection | <i>"As mentioned in the objections above, the proposed expansion can only negatively affect the neighbouring residents "health, wellbeing and comfort" therefore their land use rights will definitely be infringed upon."</i> |
| Comment | The objector is making broad statements relating to how the health and wellbeing will be adversely impacted on without providing any evidence to support this claim. |

| | |
|------------------|---|
| Objection | <i>"Another significant concern from the perspective of residents' health is the impact of spraying the berries. Residents have complained of asthma, shortness of breath, and other respiratory impacts when spraying occurs. This is likely to be increased significantly if the current operations are expanded, as proposed."</i> |
| Comment | <p>The underlying health related conditions which are highlighted by the objector are sympathised with, but the following factors also contribute to asthma.</p> <ul style="list-style-type: none"> • Airborne substances, such as pollen, dust mites, pet dander or particles of cockroach waste; • Respiratory infections, such as the common cold; • Physical activity (exercise-induced asthma); • Cold air; • Air pollutants and irritants, such as smoke; • Certain medications, including beta blockers, aspirin, ibuprofen (Advil, Motrin IB, others) and naproxen (Aleve); • Strong emotions and stress; • Sulphites and preservatives added to some types of foods and beverages, including shrimp, dried fruit, processed potatoes, beer and wine; and • Gastroesophageal reflux disease (GERD), a condition in which stomach acids back up into your throat. • <p>For the objector to blame the illness on the activities on Haygrove and to suggest that the approval and implementation of this proposal would worsen the situation without having considered other probable causes is unfair towards the owner of the subject property.</p> <p>Notwithstanding the above, the products used by Haygrove have been authorised for use by different health authorities and are unlikely to be the cause of the objector's respiratory illnesses. Spraying occurs occasionally on the subject premises and does not occur on most nights.</p> |



25/110

Response to objections pertaining to heritage related considerations.

| | |
|------------------|---|
| Objection | <p>"As regards the fifth factor¹⁸ used in purported motivation of the application, the applicant's planner states (somewhat glibly, we submit) the following: "None of the provisions in the National Heritage Resources Act, 1999 are triggered by this proposal."</p> <p>On behalf of the objectors, we contest this statement. We point out that section 38(1)(c) of the National Heritage Resources Act ("NHRA") obliges any person who intends to undertake a development categorised as any form of development or other activity which will change the character of a site exceeding 5,000m² in extent, at the earliest stages of initiating such a development, to notify Heritage Western Cape ("HWC"), and furnish HWC with details regarding the location, nature and extent of the proposed development. The only organ of state with the requisite statutory competence to decide whether the jurisdictional requirements of section 38 of the NHRA are triggered on the facts of this matter is HWC. In support of our submissions regarding the likely application of section 38 of the NHRA, we point out that the subject-property is already occupied by intensive horticulture tunnels that cover over 5ha of that property. The current character of the subject-property is defined by a mixture of tunnels and open agricultural areas. That creates a tapestry of plastic-clad structures and vegetated areas. What the applicant now proposes is an artificial and monochromatic landscape and would present a jarring contradiction with the natural surrounds in this part of the Hemelen-Aarde valley that will irrevocably change the character of the area. This is entirely clear from Plan 3 appended to the applicant's motivation, which clearly shows that the southern half of the subject-property will be effectively blanketed in plastic-covered horticulture tunnels which would extend almost to all of the subject-property's boundaries.</p> <p>In our submission, and in the event that the physical expansion of tunnels is permitted by the Municipality (across an additional 11,6737ha of the subject-property) then that expansion would amount to a change in the character of the site. This is by virtue of the very significant increase (by almost two and a half times the physical extent of the existing tunnels) in the surface area that would be occupied by the proposed tunnels. The change in character is compounded by the fact that much of the proposed tunnel infrastructure would occur in the area formerly reserved as being outside the demarcated (30m) lateral building lines on the subject-property.</p> <p>No doubt the Municipality will now oblige the applicant to furnish written confirmation from HWC to confirm the applicant's assertion that no provisions in the NHRA are triggered on the facts of the applications. A failure by the Municipality to oblige the applicant to comply with the requirements of section 38 of the NHRA before the Municipality considers the merits of the land use applications will constitute an appealable irregularity."</p> |
| Comment | <p>A notice of intent to develop was submitted by WRAP to Heritage Western Cape and a Record of Decision highlights that there is no reason to believe that the proposed expansion will impact on heritage activities.</p> |



26/110

Response to a historically related consideration.

| | |
|------------------|--|
| Objection | <i>"Whilst it is correct that the Municipality approved intensive horticulture on the subject property in its record of decision dated 9 February 2016 there can be no suggestion that the aforesaid approval in any way indicates the Municipality's view regarding the desirability of the current application. In fact, the opposite: the Municipality prescribed a condition that explicitly limits the placement and scale of horticulture tunnels (condition 3(a) in the Municipality's record of decision dated 9 February 2016). The Municipality therefore made clear its views then on the scale of Haygrove's operations, and how those operations could reasonably be expanded."</i> |
| Comment | The objector's assertion is agreed with. The motivation report has motivated the desirability of the submitted application in conjunction with the relevant provincial guidelines. There are grounds which justify the proposed expansion of horticulture activities. |

| | |
|------------------|--|
| Objection | <i>"We submit that the fact that there are existing extensive horticulture tunnels on over 5ha of the subject-property does not in any way motivate the desirability of a more than threefold expansion of the horticulture tunnels that are now proposed for the subject property."</i> |
| Comment | The desirability of the submitted proposal hinges on the positive economic impacts which are in the interest of the public and the state. This has been extensively motivated without exclusively making an assumption which relies on the assertion that the existing horticulture tunnels motivate the desirability of the submitted proposal. |

Response to objections pertaining to planning principles.

| | |
|------------------|---|
| Objection | <i>"The applicant suggests that the implementation of the proposal, by its approval by the Municipality will contribute to combating spatial development imbalances caused by apartheid spatial planning". The seasonal contract workers retained by the applicant are bussed to the subject-property on a daily basis from Hermanus and the town's environs, in order to perform their work. At the end of the day they return to the homes in which they reside, which are principally informal structures within the townships surrounding Hermanus. There can thus be no suggestion that the approval of the proposal would contribute to addressing spatial development imbalances, as the applicant would have it."</i> |
| Comment | The structures which some of the employees reside in might be informal however the following benefits will be derived with the approval and implementation of this proposal. <ul style="list-style-type: none"> • The current employees will derive an income which would enable the existing informal residential structures to be converted into formal bricks and mortar structures; and |



27/110

| | |
|--|---|
| | <ul style="list-style-type: none"> The currently unemployed people who will be employed on the subject property will also earn an income to upgrade informal buildings to formal ones. <p>The cumulative impact therefore would be an incremental visual enhancement and improved living conditions of employed inhabitants who reside in townships. This would therefore contribute to addressing the apartheid spatial legacy and create more functional and visually appealing settlements.</p> |
|--|---|

| | |
|------------------|---|
| Objection | <p><i>"As regards the applicant's assertion that the implementation of the development proposal would increase agricultural output which ... promotes efficiency at (sic) the output will be higher with low resource input" we submit on behalf of the objectors that there is a fundamental difference between efficient utilisation (as the applicant would have it) and sustainable utilisation that property strikes a balance between the ecological, social and economic impacts of the proposal. To the extent that utilising the subject-property more efficiently impacts significantly and negatively on the existing rights of neighbouring property owners to reasonably use and enjoy their property, the application simply does not pass muster."</i></p> |
| Comment | <p>Efficiency is a development principle which permeate in all planning legislation and spatial planning policies. Efficiency does not necessarily mean compromising on sustainability as the submitted motivation illustrates that the approval and implementation of this proposal will not compromise on the delicate balance between ecological, social and economic impacts.</p> |

| | |
|------------------|---|
| Objection | <p><i>"As regards the planning principles pertaining respectively to spatial resilience and good administration, we submit on behalf of the objectors that the proposal is not in harmony with the relevant spatial planning policies. WRAP's proposition that the subject proposal is in harmony with the relevant spatial planning policies pertinent to the subject-property and therefore (if approved and implemented) able to absorb environmental and economic shock in a timely and efficient manner can now be properly tested against the impacts of the Covid-19 pandemic. We submit that the applicant must provide an analysis of the impacts of the latter occurrence in order properly to inform the Municipality's decision making discretion in regard to this application."</i></p> |
| Comment | <p>The Covid 19 regulations have not had any environmental shock impact on the existing wetland and river which traverse the subject property. The location of the proposed horticulture tunnels is therefore not in environmental harm's way.</p> <p>It has been reiterated that the intensive horticulture tunnel activities on the subject property have not been economically impacted by Covid 19 regulations. This analysis provided in this response to objections therefore forms part of latter occurrences which will inform the Overstrand Municipality decision making process.</p> |



28 | 110

Response to general comments made regarding the submission.

| | |
|------------------|--|
| Objection | <p>"The visual impact of permitting an almost threefold increase of plastic-covered tunnels and a significant departure to the permissible floor area are not described in sufficient particularity to place the Municipality in a position to make a properly informed and objective decision to approve the application.</p> <p>It follows in our submission that the only decision that the Municipality can make on the facts and circumstances as presented and purportedly motivated by the applicant (and entirely rebutted in these objections) is to refuse the application on its merits.</p> <p>As regards the proper administration of the application and good administration generally by the Municipality, we submit that a proper and objective analysis of the merits of the application must result in the refusal thereof."</p> |
| Comment | The objector does not provide sufficient or substantive rebuttals which justify the refusal of the submitted application. |

| | |
|------------------|---|
| Objection | <p>"An important aspect of a properly constituted site visit will relate to the municipal decisionmaker satisfying itself as to the applicant's compliance with the stipulations set out in the Municipality's approval granted on 9 February 2016 and pertaining to Haygrove's first application for consent use and departures to accommodate the infrastructure required for "intensive horticulture (tunnels)", as that approval described it. The same applies to the relevant conditions in the 2016 municipal approval and to the documents referred to in those conditions. For example, condition 3(g) of the February 2016 municipal approval states the following: "... (g) that all conditions in the Services Report (attached as Annexure I) be complied with; ... The Services Report includes the following condition: "... 2. That no water service from Overstrand Municipality is available and the developer will be responsible to obtain the necessary approval (sic), licence and permits from the applicable authorities (water affairs, health etc.) for the use of any water resources and the extraction thereof."</p> |
| Comment | The Overstrand Municipal planner will assess the application in conjunction with the factors which have been highlighted by the objector above. |

Response to objections pertaining to the alleged defective nature of the submitted application.

| | |
|------------------|---|
| Objection | <p>"Annexure B to the application includes a power of attorney signed by a director of the owner of the subject-property and a company resolution. The power of attorney authorises WRAP to undertake the following acts: "The application for amendment of conditions of approval and departure from building lines." The company resolution signed by the directors of the subject-property's owner authorises one of the directors to act on behalf of the company regarding" applications for the following: Amendment of conditions of approval and departure from building lines." Neither the power of attorney nor the company resolution</p> |
|------------------|---|



29/110

| | |
|------------------|---|
| | <p>make any reference to an application for departure from the maximum of 5,000m² allowable floor space for all buildings on the [and unit, to permit a floor space of 17,8444ha (over 178,000 square metres) in order to accommodate the infrastructure required for intensive horticulture. It follows in our submission that the necessary authority has not been provided by the subject-property's owner for the latter departure application. That omission has the consequence that the power of attorney and company resolution fall foul of the statutory requirements set out respectively in section 39(1)(b), and section of the By-law. To the extent that the applicant's planner persists in pursuing the application as currently framed, the failure by the property owner to provide the necessary power of attorney and company resolution for purposes of the departure pertaining to the maximum allowable floor space, the application is fatally defective on that aspect. It follows that the Municipality cannot approve the application for departure from the maximum of 5,000m² allowable floor space for all buildings on the land unit to permit a floor space of 17,8444 to accommodate intensive horticulture, as the delivery of that application to the Municipality has neither been authorised by a power of attorney from the owner of the subject-property to the applicant's planner, nor is it the subject of a properly formulated company resolution that complies with the peremptory requirements stipulated in section of the By-law."</p> |
| Comment | <p>The reference to the departure in the power of attorney also includes other departures which may be required. This is due to a departure application whether it is from building lines or permissible floor space being submitted in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015. The submitted application is therefore not patently defective considering that the empowering section of the legislation is the same which nullifies the request by the objector that the application be refused on that ground.</p> |
| Objection | <p>"To the extent that the Municipality is minded to convene a meeting of the Municipal Planning Tribunal (or for that matter, when the matter serves before the Municipality's delegated official) we submit that the objectors are entitled to attend on that meeting and to deliver whatsoever oral representations may be necessary and relevant in the circumstances and in support of their representations."</p> |
| Comment | <p>The request for a hearing will be the discretion of the Overstrand Municipality.</p> |
| Objection | <p>"We submit that it behoves the Municipality to grant an audience to the objectors and the applicant when it considers its decision of first instance in order to ensure that the parties' rights to administrative action that is lawful, reasonable and procedurally fair is fully given effect to, given the facts and circumstances of the application. We look forward to hearing from the Municipality in this regard."</p> |



30/110

| | |
|----------------|--|
| Comment | The Overstrand Municipality has a good track record of good administration which is characterised by reasonable and fair procedure. The final decision will therefore be forwarded to the objector and will be granted an opportunity to object. |
|----------------|--|

Conclusion

The objections are noted however nothing was submitted which justifies the refusal of the submitted planning application.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Rea Jankie', is written over a horizontal line.

REA JANKIE

TOWN PLANNER (B/8392/2017)



31/110

Annexure A

Fire Management Plan
Haygrove Heaven Pty Ltd

**Farm: Hemel & Aarde Portions 11 & 94/587
(Caledon RD)**



Compiled by: CF Pool (tiaap@mandela.ac.za /0723742347)

May 2020

Table of content

| | |
|--|----|
| 1 INTRODUCTION | 1 |
| 2. FIRE PLAN SETTING | 1 |
| 2.1 Management Objectives and Command Structure | 2 |
| 2.2 Location of the Estate | 4 |
| 2.3 Vegetation, Land Cover and Ecological Requirements | 4 |
| 2.4 Climate and Weather | 5 |
| 3 FIRE PROTECTION | 5 |
| 3.1 Fire Belts & Blocks | 6 |
| 3.2 Block Burning (refer to Annexure 11 & 12) | 22 |
| 3.3 Road Network | 23 |
| 3.4 Buildings and Other Infrastructure | 23 |
| 3.5 Equipment & Tools | 24 |
| 3.6 Support Equipment/resources | 24 |
| 3.7 Water Points (Annexure 9) | 25 |
| 3.8 Fire Danger Index (FDI) | 25 |
| 3.9 Preparation of Belts | 25 |
| 3.10 Neighbours and Their Resources | 25 |
| 3.11 Responsibilities of Staff Members | 26 |
| 4 FIRE PREVENTION | 26 |
| 4.1 Education and Training | 26 |
| 4.2 Enforcement | 27 |
| 4.3 Engineering | 27 |
| 4.4 Requirements of the NV&FFA (101 of 1998) | 27 |
| 5 SUPPRESSION | 27 |
| 5.1 Suppression Objectives | 28 |
| 5.2 Basic Suppression Tactics | 29 |
| 5.3 Fire Action Plan | 30 |
| 5.4 Maintenance of Fire Management Plan | 30 |

34/110

LIST OF FIGURES

| | Page |
|---|-------------|
| Figure 1: Fire Incident Organogram | 3 |
| Figure 2: Rainfall in the Hermanus area | 5 |

35/110

LIST OF TABLES

| | Page |
|--|-------------|
| Table 1: Belt and Block Register – Haygrove Heaven | 5 |

36/110

LIST OF ANNEXURES

| | Page |
|--|-------------|
| Annexure 1: Neighbouring Farms | 31 |
| Annexure 2: Contact Details of Role Players | 32 |
| Annexure 3: Fire Danger Index (FDI) | 33 |
| Annexure 4: Own Fire Resources | 37 |
| Annexure 5: Neighbours Fire Equipment | 38 |
| Annexure 6: Training Needs | 39 |
| Annexure 7: Responsibilities of Staff | 40 |
| Annexure 8: Action plan for suppression | 42 |
| Annexure 9: Belts Blocks & Water points | 44 |
| Annexure 10: Grow Tunnels | 45 |
| Annexure 11: Internal Blocks | 46 |
| Annexure 12: Dates of Burning | 47 |
| Annexure 13: Membership Fees for FPA | 48 |
| Annexure 14: Agreements with Neighbours | 49 |
| Annexure 15: Greater Overberg Fire Protection Association Rules | 55 |
| Annexure 16: Application for Burn Permit | 65 |
| Annexure 17: Veldfire Risk and Hazard Assessment Form (Infrastructure) | 72 |
| Annexure 18: Safeguarding Houses from the Threat of Wildfire | 74 |

1 INTRODUCTION

The objective of this management plan is to provide a management framework that will guide activities that contribute towards protecting the farm (people, infrastructure and environment) from veldfires, preventing veldfires from starting and suppressing veldfires in a cost-effective manner. It further outlines the important principals involved in sound fire management practices and identifies and specifies specific management actions or options that should be implemented to mitigate risk from veldfires.

2. FIRE PLAN SETTING

Haygrove Heaven Estate consist of portions 94/587 (71.5 ha) & 11/587 (155 ha) of the parent farm Hemel op Aarde – 226.5 ha in total. Local names of previous farm portions include Tuintjiesfontein, Ertjiesvlei and Nuwepos. The property enclose the farm Gazate Site (88/587) (39 ha), the farm of Mr Helgardt Ackermann. Mr Ackerman uses the same access road from the R320 Caledon road and drive through Haygrove Heaven to access his property.

Neighbouring farms include:

- Western boundary: Sandford farm (RE/2/587) – Kobus van Zyl
- South Westerly boundary: Pieter Sham Farm (45/587) – Pieter Sham
- Southerly boundary: De Werf Estate (50/587 & 15/587) – Neville Howarth
- South Easterly boundary: Clouds End Farm (RE/7/587) – Brain Frost
- South Easterly boundary: Spookfontein Farm (8/587) – Andries Gotze
- Eastern boundary: Ertjiesvlei (17/587) – RW Erwee
- Eastern boundary: Ertjiesvlei (RE/587) – Willie Beukes

(Refer to Map in Annexure 1).

The estate falls within the municipal jurisdiction area of the Hermanus Municipality and in case of fire is serviced by the Overberg District Municipality. Haygrove Heaven is a member of the Greater Overberg Fire Protection Association (goFPA) whose office is situated in Bredasdorp.

2.1 Management Objectives and Command Structure

Haygrove Heaven is a berry farm with focus on producing blueberries and raspberries. Farming is intensive and fruit is grown in tunnels as well as areas covered by shade netting. In addition to being berry growers, the farm also supports and funds a social upliftment project. The estate is a major employer in the region and employs \pm 178 permanent staff, but also provide employment to 300-500 seasonal workers during harvesting season. The northern part of the estate includes pristine fynbos and efforts are made to maintain the area as such.

A well-developed infrastructure has been established in support of the farming activities. Apart from growing tunnels, a well-designed road system, dams and water delivery system have been developed. Buildings on the estate include offices, storerooms as well as residential areas.

As the region and vegetation within the area are part of a natural fire driven ecosystem, veldfire management plays an important part of general management on the estate. Fires pose a threat to the growing areas as well as the buildings on the estate and protection human life and infrastructure. Management objectives in this document therefore includes protection, prevention and suppression of veld fires.

A fire incident command structure as set out in Figure 1 has been developed to achieve the set objectives. This organogram contains names of key role players and the responsibilities and activities of these individuals will be discussed in this document.

Fire Incident Organogram

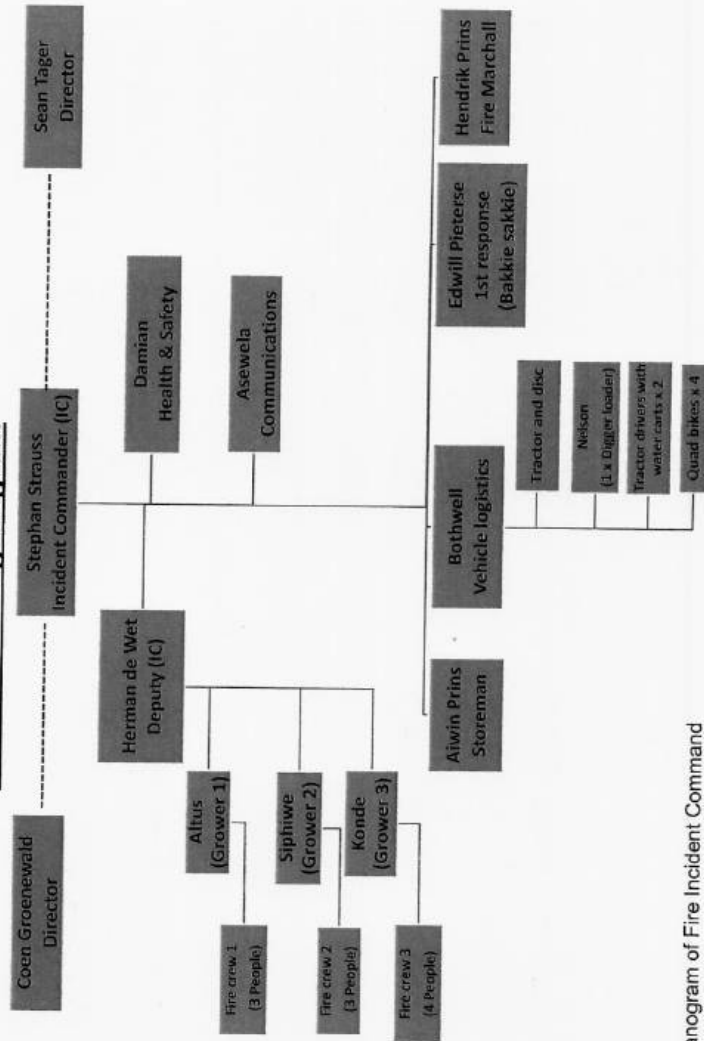


Figure 1: Organogram of Fire Incident Command

39/110

2.2 Location of the Estate

At an altitude of 400-870m, Haygrove Heaven is situated at the foothills of the Babilonstoring Mountain in the Hemel-en-Aarde valley north of the R320 Caledon road. The Estate is 15 km from Hermanus and 26 km from Caledon. To the north of the Estate and on the plateau of the mountain, is the Babilonstoring Nature reserve. The Onrus River defines the southern boundary of the Estate.

The Hermanus area is a popular tourist venue and as the Estate is part of the scenic route (R320) it is in plain view of passing motorists.

2.3 Vegetation, Land Cover and Ecological Requirements

The natural vegetation in the area is Fynbos. The Fynbos biome is one of the biomes of South Africa and is recognised as one of the floral kingdoms of the world because of its vast biodiversity of species. Three plant families give the fynbos its distinctive character – Proteaceae, Ericaceae and Restionaceae (Cape reeds). Geophytes – plants that spend much of the year underground as a bulb – are also a significant part of the fynbos and are responsible for the spectacularly colourful floral displays of spring and summer or after fire.

Of note is the level of endemism in the Cape Floral Kingdom. Plants are subject to environmental factors such as exposure to wind direction, soil type, north or south facing slopes, access to water and frequency of fire, which has resulted in adaptations to such environments and consequently a wildly varying diversity of species.

Fynbos is highly flammable and a fire dependant biome. It uses fires to spread its seeds, as fires free up space into which the seeds can germinate, or new plants can sprout. A post-fire environment has more available nutrients reintroduced from the ash, enough light and fewer "nibblers" (mice, ants and other animals and insects), giving the seedlings the perfect environment to grow in.

Fire is therefore an important driver of the ecology of Fynbos and protecting an area from fire will not only lead to build-up of excessive amounts of hazardous, flammable fuels, but will impact negatively on the survival of some Fynbos species. Fynbos in the Hermanus area typically needs to burn every 12-15 years.

2.4 Climate and Weather

Hermanus is classified as having a warm-summer Mediterranean climate. It receives roughly 520 mm of rain per annum, the majority of which falls during the winter months of June to August in the form of frontal precipitation. Average midday temperatures range from 25 °C in February to 16 °C in July. Extremes above 30 °C and under 10 °C are not uncommon. Summer and Winter months are characterised by strong South-Easterly and North-Westerly winds respectively. The North-Westerly wind is the dominant rain carrying wind.

It is important to note these dominant wind directions as veldfires are usually driven by these winds. The implication of this is that the north-westerly as well as the south-easterly boundaries of the Estate will be the most vulnerable to fires. The high fire season in this region starts in October and ends in February.

The area is frost free, hail is rare and thunderstorms very occasional.

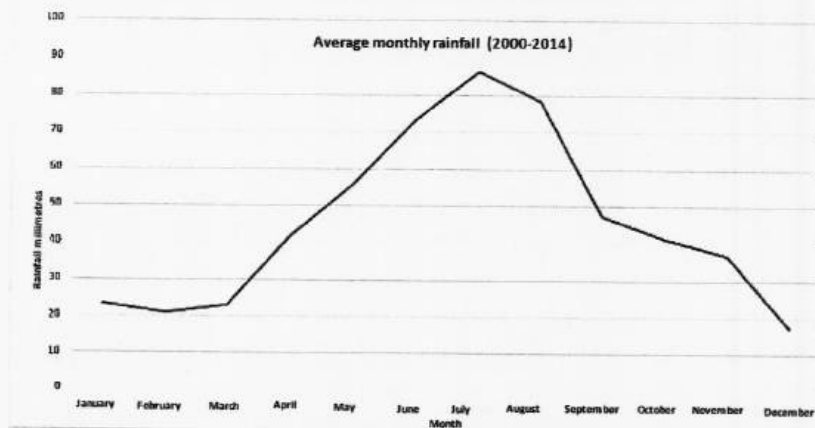


Figure 2: Rainfall in the Hermanus area

3 FIRE PROTECTION

Fire Protection is the study of unwanted fires and mitigating its negative effects on infrastructure, human life and the environment. A fire protection strategy includes the study of local weather patterns, vegetation, topography, fire history and fire behaviour. Fire protection activities therefore focus on fire management infrastructure, roads,

water resources, training and responsibilities of staff, communication systems, adherence to statutory laws and regulations and maintenance of equipment.

3.1. Fire Belts & Blocks

According to the National Veld and Forest Fire Act (Act 101 of 1998), landowners should prepare belts on the boundaries of their properties if there is a reasonable chance of a veldfire starting and spreading from, or onto the property. If a landowner belongs to the local Fire Protection Association (FPA), belts should be prepared in accordance to prescriptions of the FPA.

If neighbours are in agreement, boundary belts between them can be constructed at an alternative location. This agreement should be in writing. The FPA should endorse the alternative location. This is usually done if the current location of the shared belt does not facilitate optimal protection to the properties, needs very costly preparation or if the area is an ecological sensitive area.

Belts are divided in internal and external belts. External belts are on the boundary of a property, while internal belts divide the property in smaller units for additional protection of assets.

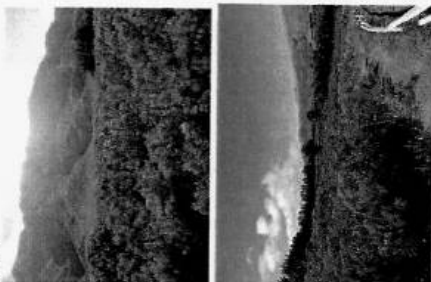
Belts may include natural or manmade features like water bodies, roads, cultivated land, managed conservation areas/blocks, sport fields, etc.


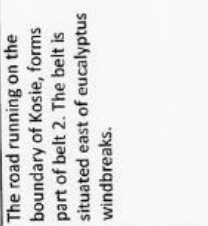
Fire belts and breaks should be prepared before the beginning of the fire season. High fire season in the Overberg region is in the summer (dry season), when temperatures are high, relative humidity low and south-easterly winds and warm north-westerly winds are common (Bergwinds). The high fire season in this region starts in October and ends in February. The beginning, duration and end of the fire season is dictated by the weather and should be communicated to members by the FPA.

If prescribed burning is used to prepare fire belts or to manage fuels on the property, the owner should acquire a burning permit from the local FPA.


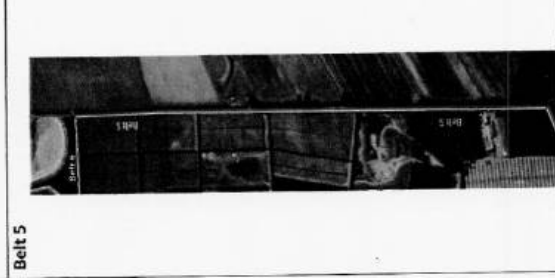
Refer to Table 1 and Annexures 10 & 11 for a complete list of fire belts and breaks for the farms Hemel op Aarde portions 94/587 and 11/587.

Table 1: Belt & Block Register - Haygrove Heaven

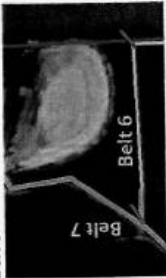

| External belts | Description | Specifications | When to prepare | Preparation method |
|---|--|---|---|---|
| <p>Belt 1</p>  | <p>NW boundary of farm. Runs N (highest point) to S (lowest point). Starts at homestead in north and runs past the racehorse track. It ends just south of the racetrack. It consists of fynbos.</p> <p>This belt is the most vulnerable to wildfire driven by the NW winds. It borders Block 2. Management of fuels in block 2 is essential to strengthen this belt.</p> | <p>Belt must be 5m wide. All vegetation to be removed to height of 10cm above mineral soil.</p> | <p>Each year by the end of September.</p> | <p>Mechanical mowing/brush cutting of vegetation or manual slashing to a maximum height of 10 cm. All cut material to be distributed into Block 2 by making use of hayforks</p> |
| <p>Belt 2</p> | <p>Western boundary of farm bordering Stanford horse farm. Starts at NE corner of Kosie A1 where belt 1 ends. Belt 2 borders Kosie A1, Kosie E, C & D. Ends at southern tip of Kosie D.</p> | <p>Belt must be 3m wide – including the road and road shoulder.</p> | <p>Each year by the end of September but can be prepared earlier in the year.</p> | <p>As cultivated fields on the horse farm west of the belt pose little threat, the road bordering Kosie provides sufficient protection from fire. The shoulder of the road bordering the Eucalyptus windbreak</p> |

| | | | | | | |
|--|---|---|---|---|---|---|
|  <p>Belt 3</p> | <p>The road running on the boundary of Kosie, forms part of belt 2. The belt is situated east of eucalyptus windbreaks.</p> | <p>Belt starts against belt 2 and runs south of Kosie D and Fugie B. The belt is situated south of the windbreak. The belt ends against the access road to the farm bordering the riparian vegetation from the Onrus river.</p> | <p>Belt must be 3m wide and is measured from the edge of the road bordering Kosie D and Fugie B. Windbreak is part of the belt.</p> | <p>Each year by the end of September but can be prepared earlier in the year.</p> | <p>As fynbos vegetation from the bordering Pieter Sham's farm (45/587) pose a marginal fire treat, the windbreak should be kept clean underneath with rakes and the vegetation south of the windbreak should be mowed with a brush cutter.</p> | <p>should be kept free of burnable fuels. It is recommended that windbreaks be kept clean underneath.</p> |
|  <p>Belt 4</p> | <p>This belt starts against the CFO block and runs east against the De Werf Estate fence line and the boundary of Clouds End apple farm and Spookfontein farm (blue gum plantation). The belt is situated south of CFO, SBB, Oak, Shell and Johan blocks. The belt consists of natural fynbos vegetation as well as</p> | <p>Belt must be 1.5-2 wide against the De Werf fence line. The windbreak against the berry blocks are part of the belt. Against Clouds end and Spookfontein farm boundaries the belt should be at least 3m wide and is</p> | <p>Each year by the end of September but can be prepared earlier in the year.</p> | <p>The vegetation on De Werf Estate is well managed and pose little treat to the farm. The fynbos vegetation on Clouds End as well as the blue gums plantation on Spookfontein pose a marginal fire treat, the windbreak should be kept clean underneath with rakes and the vegetation south of the windbreak should be</p> | <p>The vegetation on De Werf Estate is well managed and pose little treat to the farm. The fynbos vegetation on Clouds End as well as the blue gums plantation on Spookfontein pose a marginal fire treat, the windbreak should be kept clean underneath with rakes and the vegetation south of the windbreak should be</p> | <p>should be kept free of burnable fuels. It is recommended that windbreaks be kept clean underneath.</p> |



45/110

| | | | |
|---|--|--|---|
|  | <p>windbreaks on the edge of the berry blocks.</p> | <p>measured from the edge of the road bordering the berry blocks and includes the windbreaks.</p> | <p>mowed with a brush cutter. The road bordering the berry blocks will provide additional protection in case of a fire.</p> |
| <p>Belt 5</p>  | <p>This belt forms the eastern boundary of the farm. It starts against belt 4 in the south (Spookfontein farm) and runs north to just south of Dam 1 on the eastern boundary of the farm. East of the belt is the farm (17/587) where vineyard cuttings are produced as well as the farm Ertjesvlei (RE/587) consisting of cultivated fields. An area of concern is the eucalyptus stand north of Johan 3 growing block and opposite Johan 4. This area is not a high-risk area because of the bordering cultivated areas on the bordering farms. On both bordering farms a eucalyptus windbreak is evident.</p> | <p>The belt should be 2-3m wide and should also protect the fence line. Where the belt passes the eucalyptus stand it should be at least 3m wide.</p> | <p>Each year by the end of September but can be prepared earlier in the year.</p> |
| | | <p>Where possible the belt can be mowed with a tractor and mowed areas should not be higher than 10cm and a brush cutter. There are however portions where the belts can be raked clean of burnable material and other areas where roads can be maintained as belts.</p> | |

46/110

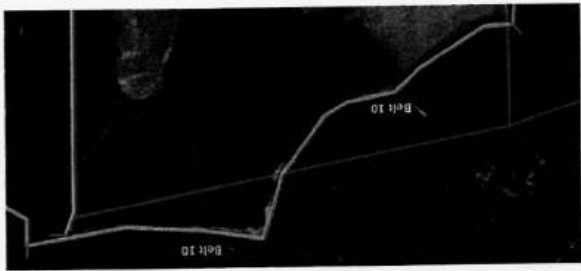
| | | | | |
|--|---|--|---|--|
| <p>Belt 6</p>  | <p>This belt is situated south of Dam 1 on the eastern border of the farm and links and links belt 5 (boundary belt) and Belt 7 (Internal belt). Between the belt and the dam there is some fynbos vegetation. South of the belt is a eucalyptus windbreak that borders a cultivated field.</p> | <p>The belt should be 3m wide and include the windbreak. The western part of the belt is bordering fynbos on both sides and should be 5m wide in this area. See green line on map.</p> | <p>Each year by the end of September but can be prepared earlier in the year.</p> | <p>The belt can be mowed by a tractor and brush cutter but where it runs along the windbreak should be prepared by raking and removing burnable material from under the windbreak.</p> <p>**It is recommended that the fynbos between belt 6 and Dam 1 is burned every 10-12 years for additional protection as well as ecological health.</p> |
| <p>Belt 7</p>  | <p>Belt 7 starts as an internal belt against Dam 2 SW of belt 6. It follows the road running NE from Dam 2. This belt follows the road, as it will be easier and cheaper to prepare and maintain. The biggest part of this belt has fynbos vegetation on both sides.</p> | <p>This belt should be 5m wide including the road.</p> | <p>Each year by the end of September.</p> | <p>Mechanical mowing/brush cutting of vegetation or manual slashing to a maximum height of 10 cm. A strip should be cut on either side of the road. All cut material to be distributed into Block 1 by making use of hayforks.</p> <p>**It is recommended that the fynbos between belt 7 and the Neighbouring farm be burned every 10-12 years for additional protection as well as ecological health.</p> |

47/110



| | | | | |
|--|---|--|---|--|
| <p>Belt 8</p>  | <p>This belt extends belt 7 and runs north up to the turning point of the <i>cu/de-soc</i> road. This belt has fynbos on both sides. Although this belt is not anchored in the north, it will provide the opportunity to suppress and or slow down wildfires.</p> | <p>This belt should be 5m wide including the road.</p> | <p>Each year by the end of September.</p> | <p>Mechanical mowing/brush cutting of vegetation or manual slashing to a maximum height of 10 cm. A strip should be cut on either side of the road. All cut material to be distributed into the adjacent area by making use of hayforks.</p> |
| <p>Belt 9</p>  | <p>This belt starts against belt 7 & 8 in the east and runs due west until it ends close the NW corner of the farm Gazate Site. The belt follows the road as indicated on the map. This belt has fynbos on both sides.</p> | <p>This belt should be 5m wide including the road.</p> | <p>Each year by the end of September.</p> | <p>Mechanical mowing/brush cutting of vegetation or manual slashing to a maximum height of 10 cm. A strip should be cut on either side of the road. All cut material to be distributed into Block 1 by making use of hayforks.</p> |

48/110

12

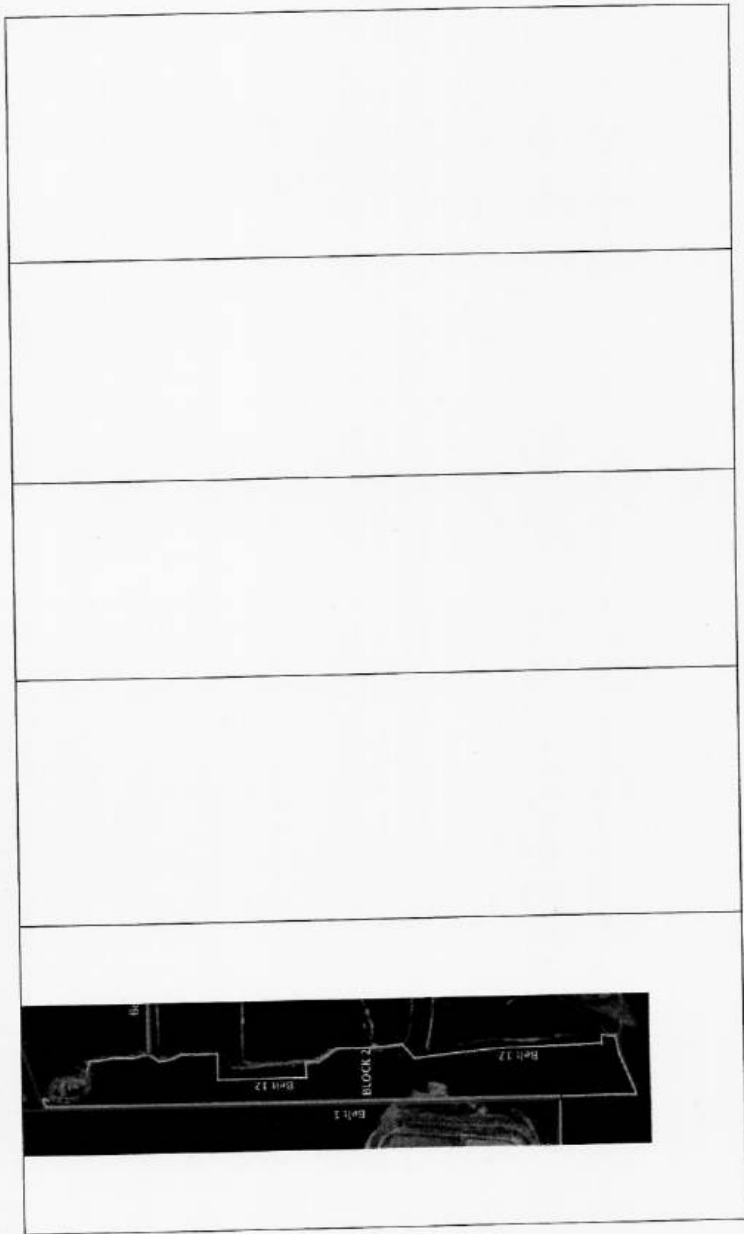
| | | | | |
|---|--|------------------------------------|---|---|
| <p>Belt 10</p>  | <p>This belt provides protection to the farm. Gazate Site and should be constructed next to the existing belt on the farm. The belt stretches across the northern boundary of Gazate Site in a E-W direction. It starts against belt 9 and ends at the windbreak NW of Gazate Site. As part of this belt will be constructed on the Gazate Site farm, an agreement should be entered into with the farm owner to allow construction of this belt on his farm but at the same time be recognised as the official belt from Haygrove. This agreement should be endorsed by the local FPA. The vegetation north of this belt is fynbos.</p> | <p>This belt should be 5m wide</p> | <p>Each year by the end of September.</p> | <p>Mechanical mowing/brush cutting of vegetation or manual slashing to a maximum height of 10 cm. All cut material to be distributed into the area north of the belt by making use of hayforks.</p> |
|---|--|------------------------------------|---|---|

49/110

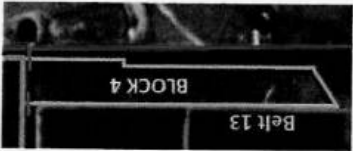
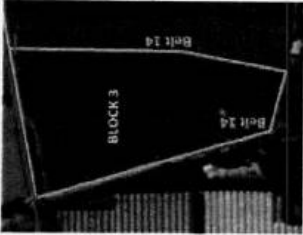
| | | | | |
|---|--|---|--|---|
| <p>Belt 11</p>   | <p>This belt starts against belt 10 (NW corner of the farm Gazate Site) It stretches south along the windbreak along the boundary of this farm. It then runs in a westerly direction north of Sam 1 & 2 until it reaches the access road to the mountain house. North of this belt is fynbos.</p> <p>It is recommended that this area is burned every 10-12 years. This should be done in corporation with the Babilongstoring nature reserve, Overberg FPA as well as adjacent farm owners.</p> | <p>This belt should be 5m wide</p> | <p>Each year by the end of September.</p> | <p>Mechanical mowing/brush cutting of vegetation or manual slashing to a maximum height of 10 cm. All cut material to be distributed into the area north of the belt by making use of hayforks.</p> |
| <p>Internal belts</p> <p>Belt 12</p> | <p>Description</p> <p>This belt is the eastern boundary of Block 2 and runs along service roads. It starts at the mountain house and stretches south along Sam 1 & 2, Dam 7, Pink as well as Koste 1 & 2.</p> | <p>Specifications</p> <p>This belt includes roads and windbreaks and should be at least 3m wide.</p> | <p>When to prepare</p> <p>This belt should be prepared when burning in Block 2 is planned</p> | <p>Preparation method</p> <p>Mechanical mowing along the access road leading to the mountain house. Mowing/ slashing of vegetation to a maximum height of 10 cm. All cut material to be distributed into Block 2 by making use of hayforks. Windbreaks should be raked underneath.</p> |



56/110

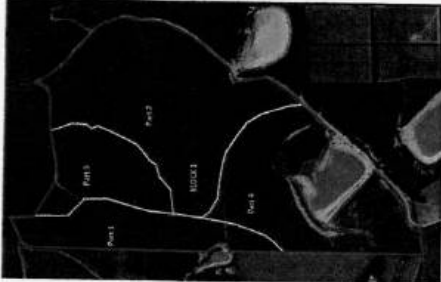
14



51/110


| | | | | |
|--|--|------------------------------------|---|--|
| <p>Belt 13</p>  | <p>This belt is anchored against belt 11 and runs around Block 4. The eastern part of the belt stretches along a windbreak (Plastic water pipes on the ground) and the western part includes the road along Sam 2 & 3.</p> | <p>The belt should be 3m wide.</p> | <p>The belt should be prepared when burning in block 4 is planned.</p> | <p>Belt should be slashed/mowed along the windbreak. Tail vegetation should be slashed when next to the road. Slashed material should be dispersed into the block.</p> |
| <p>Belt 14</p>  | <p>This belt is anchored against belt 15 and runs around Block 3. The eastern part of the belt runs south between fynbos and an old cultivated field and the western part includes the road along JRT & JRB.</p> | <p>The belt should be 3m wide.</p> | <p>The belt should be prepared when burning in block 3 or 1 is planned.</p> | <p>Belt should be slashed/mowed between the fynbos and the old cultivated field. Tail vegetation should be slashed when next to the road. Slashed material should be dispersed into the block.</p> |

| | | | | |
|---|---|--|---|--|
| <p>Belt 15</p>  | <p>This belt is situated south of the farm Gazate Site. It starts at the NE corner of JRT and runs east until it reaches the road running NE. It stops at the SE corner of Dam 2. South of the belt is some fynbos as well as an old cultivated field. Once the belt has passed the boundary of Gasate Site farm, it forms the southern boundary of Block 1. The road forms part of the belt.</p> | <p>The belt should be 3m wide.</p> | <p>The belt should be prepared when burning in block 3 or 1 is planned.</p> | <p>Belt should be mowed/slashed to a maximum height of 10 cm. Tall vegetation should be slashed when next to the road. Slashed material should be dispersed into the blocks.</p> |
| <p>Belt 16</p>  | <p>This belt runs along the eastern boundary of Gazate Site farm and Haygrove. The northern part of this belt is bordered by fynbos on both sides, but towards the south Gazate Site farm has cultivated fields bordering it.</p> | <p>The northern part of this belt should be 5m wide and the southern part 3m</p> | <p>The belt should be prepared annually and/or when burning in block 1 is planned</p> | <p>Belt should be mowed/slashed to a maximum height of 10 cm. Slashed material should be dispersed into block 1 with the use of hayforks.</p> |

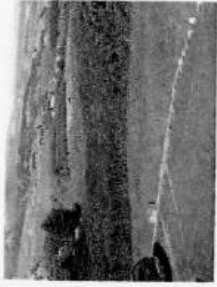


| Blocks | Description | Specifications | When to prepare | Preparation method |
|---|---|---|---|--|
| <p>Block 1</p>  | <p>Block 1 in the NE corner of Haygrove farm and consist of fynbos. There are several roads passing through this area that can be used to subdivide the area. These also serve as fire breaks and provide an easy opportunity to construct belts.</p> <p>Managing fuels in this block is important as fires advancing from an easterly direction will pass through this area and can possibly cause damage to the farm Gazate Site. In addition, managing this area by making use of fire will ensure ecological health of the fynbos.</p> <p>The belt is enclosed by belt 7 (east), belt 9 (north), belt 16 (west) and belt 15 (south). The area is subdivided into 4 parts that should be burned separately on a 12-year rotation. (One part every 3 years.</p> | <p>Belts 7 & 9 should be a minimum of 5m wide. Belts 15 & 16 should be a minimum of 3m wide. Belts constructed to subdivide the block should be a minimum of 3m wide.</p> | <p>Belts 16, 7 & 9 should be prepared every year by the end of September. All other relevant belts/portions of belts should be prepared when burning is planned within the block.</p> | <p>Belts should be mowed/slashed to a maximum height of 10 cm. Slashed material should be dispersed into block 1 with the use of hayforks. A strip should be mowed on either side of the roads where possible.</p> <p>Every 3 years a section of the block should be burned. The different parts of the belt should be burned in the sequence of numbers allocated to these parts.</p> |

54/1110

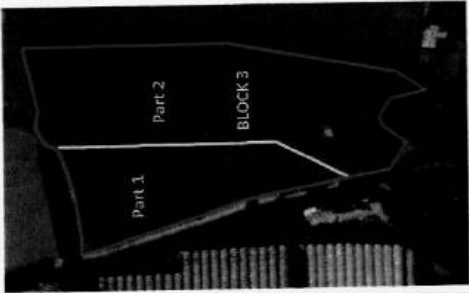
18



| | | | | |
|--|---|---|--|--|
| <p>Block 2</p>  | <p>Situated on the western boundary of the farm and has a N-S orientation. It stretches from the mountain house in the north, and goes past Sam 1 & 4, Pink and Kosie A1 & A2.</p> <p>Managing fuels in this block is important as fires advancing from the north or NW will pass through this area and can possibly cause damage to growing blocks and fuel fires that can ultimately cause damage on the farm Gazate Site. In addition, managing this area by making use of fire will ensure ecological health of the fynbos.</p> <p>The block contains fynbos. It is subdivided into 4 smaller parts. Belts subdividing the block are starting at the windbreak at the SW part of Sam 1, along the mountain bike track and from the southern part of the racetrack towards Pink.</p> | <p>Belt 1 should be a minimum of 5m wide. Belt 12 should be a minimum of 3m wide. Belts constructed to subdivide the block should be a minimum of 3m wide</p> | <p>Belt 1 should be prepared every year by the end of September. All other relevant belts/portions of belts should be prepared when burning is planned within the block.</p> | <p>Belts should be mowed/slashed to a maximum height of 10 cm. Slashed material should be dispersed into block 2 with the use of hayforks. A strip should be mowed on either side of the roads where possible.</p> <p>Every 3 years a section of the block should be burned. The different parts of the belt should be burned in the sequence of numbers allocated to these parts.</p> |
|--|---|---|--|--|

55/110

| | | | | |
|---|---|--|--|---|
|  | <p>It is bordered by Belt 1 in the west and belt 12 in the east. Part of a mountain bike track cuts through it from the corner of Sam 4 to the racehorse track.</p> | | | |
|  | <p>Situated south of the farm Gazate Site and east of JRB & JRT growing blocks. The block contains fynbos. It is subdivided into 2 smaller parts. A belt subdividing the block starts against belt 15 and runs south until it ends in belt 14. A small drainage</p> | <p>All belts should be a minimum of 3m wide, including those constructed to subdivide the block. Roads should be included as part of the belts</p> | <p>Belt 15 should be prepared annually by September, and belt 14 when burning in the block is planned.</p> | <p>Belts should be mowed/slashed to a maximum height of 10 cm. Slashed material should be dispersed into block 3 with the use of hayforks. Every 6 years a section of the block should be burned.</p> |
| <p>Block 3</p>  | | | | |

56/110

| | | | | |
|---|---|--|--|--|
|  <p>Block 4</p> | <p>line/stream runs from north to south through Part 2 of the block and will contain riparian vegetation that might be difficult to burn. As the area is reasonably small, it does not make sense to divide the area into more parts.</p> <p>Although the area contains fynbos the fire risk is not so high in this area and the primary objective in burning this block will be to ensure ecological health of the fynbos.</p> | <p>All belts should be a minimum of 3m wide, including those constructed to subdivide the block. Roads should be included as part of the belts</p> | <p>Relevant portions of belts should be prepared when burning in the block is planned.</p> | <p>Belts should be mowed/slashed to a maximum height of 10 cm. Slashed material should be dispersed into block 4 with the use of hayforks.</p> <p>Every 6 years a section of the block should be burned.</p> |
|---|---|--|--|--|

| | | | | |
|--|--|---|--|---|
|  <p>BLOCK 4 Part 2 Part 1</p> | <p>the windbreak next to the boundary of Gazate Site. As the area is reasonably small, it does not make sense to divide the area into more parts. Although the area contains fynbos, the fire risk is not so high in this area and the primary objective in burning this block will be to ensure ecological health of the fynbos and to protect the infrastructure of Sam 3 & 3.</p> | <p>A 3m belt should be constructed around each structure.</p> | <p>Each year by the end of September</p> | <p>Belts should be mowed/slash to a maximum height of 10 cm and slash distributed into the adjacent area.</p> |
| <p>Communication tower and electricity distribution box</p>  | <p>To the east of the mountain house, there are some communication towers/structures. In case of a fire, they might get damaged and should be protected.</p> | | | |

3.2 Block Burning (Refer to Annexure 11 & 12)

The purpose of burning blocks are to manage hazardous fuels and to maintain the ecological health of the Fynbos vegetation in these blocks. Four blocks have been identified on the Estate. These blocks have been subdivided into smaller parts to facilitate easier burning. The burning cycle of the Fynbos is estimated to be a 12-year rotation and burns should be executed in these blocks accordingly. The subdivision of the blocks and the scheduling of the burning will create a mosaic of different field age classes. The different fuel ages will provide suitable habitats for different animal and insect species and allow succession of Fynbos species.

Burning of these blocks should be completed before October and a high green /low yellow Fire Danger Index (FDI) should be considered for safe burning (Refer to Annexure 3 for information on the FDI). Belts should be prepared before burning is attempted. A burning permit should be acquired from the local authorities prior to burning (Annexure 16).

Ideal burning conditions include the following parameters:

- Temperature: $\pm 25^{\circ}\text{C}$
- Rain during raining season before burning: at least 50mm
- Wind: maximum 15km/hr
- RH: 40%-60%
- FDI: Maximum 45 (Yellow)

Rules for controlled burns:

- Permits are issued for different lengths of time depending on the time of year and the type of burn (stubble lands, ecological, rubbish heap, etc.). Please inquire at your local fire station for more information.
- The Fire Brigade does an inspection before issuing the permit. The Overstrand Municipality currently charges a consultation fee for this.
- You may not burn on a Friday, Saturday, Sunday or public holiday.
- You may only burn on a Friday or day before a public holiday with special permission from the Fire Brigade.
- You may not burn on an Orange or Red (Fire Danger Index) day.

59/110

- You are bound by the personnel and equipment numbers as on the application.
- You must inform your neighbours and/or other authorities 2 weeks prior to the burn and again daily before burning starts.
- You must inform the control centre or local fire station daily before burning starts.
- All fires have to be extinguished before 16:30 daily.
- Patrol the area until the burnt area is cold (See suppression).
- You are responsible for the burn and its consequences.

3.3 Road Network

Roads do not only serve as fire breaks, but also provide access to different parts of the Estate. For this purpose, all roads need to be maintained and inspected to ensure serviceability. All roads should be accessible to vehicles used to suppress fire. In addition, roads should provide turnaround points and narrow roads should provide areas where two vehicles can pass each other. Where roads pass water points, provision should be made for vehicles to pass one another and be able to turn around. Roads should be inspected before planned burning operations and before high fire season.

3.4 Buildings and Other Infrastructure

Infrastructure such as residences, offices, sheds, growing structures (Tunnels) as well as plastic water tanks & pipes may suffer damage or total destruction because of wildfire if not protected.

Annexures 17 & 18 provide an assessment tool to measure vulnerability of structures and point out some basic interventions that should protect these infrastructure from fire. In addition, the goFPA also provide some basic rules regarding the protection of buildings. As a summary of these guidelines the following should be considered:

- All buildings should conform to the municipal building regulations.
- Buildings should be equipped with fire extinguishers.
- A dedicated fire hose with sufficient water pressure should be installed at buildings. Alternatively, a 30m garden hose should be available.
- There should be a 30m radius defendable space around buildings (see annexure 18).

60/110

- Where buildings are close to hazardous vegetation a fire belt should be prepared to protect the building.
- Buildings should be free of flammable material on roofs, against walls, in front of windows and encroaching flammable vegetation.
- There should be well-defined escape routes from buildings that lead to emergency assembly points.
- Residents & staff should be educated w.r.t. fire awareness and emergency evacuation drills practiced.

3.5 Equipment & Tools

Equipment refers to vehicles and machinery used to suppress fires. Tools refer to hand held tools used by fire fighters to suppress fires. A register of all equipment and tools should be kept and regular checks perform to ensure its serviceability. During the high fire season, a weekly check should be performed on all equipment and tools. After a fire, all tools and equipment should be checked again.

All water-carrying vehicles should be equipped with hoses and nozzles. In addition, each vehicle should carry basic firefighting tools like fire beaters, knapsack pumps, rakehoes and slashers.

A dedicated storeroom should be allocated where all fire tools can be kept. Refer to Annexure 4 for a list of recommended resources. Annexure 5 indicates resources of neighbours who might be called upon for assistance in case of emergency.

3.6 Support Equipment/resources

Support equipment are not directly used to suppress fires, but are necessary to facilitate fire management/suppression. These may include:

- Head lamps/torches
- Spare radios and batteries
- First aid kit
- Containers with drinking water (Must be clearly marked)
- Containers with fuel for pumps
- Emergency rations for fire fighters

As is the case above, these items should be on register and checked for serviceability

3.7 Water Points (Annexure 9)

There are several water points located on the Estate. These points are part of the irrigation system for the berry tunnels. Valves should be checked regularly. Water points situated in the high-risk areas of the Estate (North, NW, NE boundaries) should have dedicated and marked refilling hoses that should be kept in a known location for fast deployment to any water point in case of fire.

In addition to water points, there are eight dams on the Estate. The Estate should have at least two mobile water pumps that can be used to refill vehicles at these dams.

The areas where refilling of fire fighting vehicles take place must be engineered to accommodate these vehicles without blocking roads. It should be kept in mind that these areas often become wet from water spillage during refilling and where relevant refill areas should have a gravelled surface area.

3.8 Fire danger index (FDI)

Fire danger index should be calculated daily at 10am and 2pm. Members of the goFPA should receive daily updates on the FDI. The FDI is an important indicator of fire behaviour and should be used as criteria for planned burning operations. Landowners must inform all workers and visitors about the status of the FDI to ensure that people are cautious about fires especially on high fire danger days. The FDI status on any day also serves as guide for the level of fire preparedness on the Estate.

The FDI is presented as a number between 1 - 100 and then expressed as a colour code to indicate fire danger. Orange and red colours are regarded as very dangerous fire weather days (Annexure 3).

3.9 Preparation of Belts

Refer to Table 1 for preparation of fire belts.

3.10 Neighbours and Their Resources

Preparation of boundary fire belts by burning should take place in collaboration with neighbours. Refer to the National Veld and Forest Fire Act (Act 101 of 1998) for procedures to follow. Neighbours should also be informed about any burning activities on the Estate. In case of an unwanted fire, neighbours have a legal obligation to assist if life or property is threatened. Annexure 1 display the names and contact details of all neighbours. Annexure 5 gives an indication of the resources available on neighbouring farms.

3.11 Responsibilities of Staff Members

Refer to Annexure 7 for general responsibilities of key role players, w.r.t. fire management.

4 FIRE PREVENTION

The goal of fire prevention is to prevent any unwanted fire ignitions that may cause damaging veldfires. In order to prevent unwanted fires from starting it is necessary to firstly identify possible ignition sources as well as the areas of probable ignition. Once these factors have been identified, mitigation plans/methods should be implemented. Mitigation measures typically includes education of people, engineering of the areas of ignition and enforcing the law should someone not adhere to company rules and legislation.

4.1 Education and Training

Through education and awareness, unwanted fires can be prevented and/or damage caused by them minimized. Staff should be made aware dangerous activities and the risks of unwanted fires. It is therefore important to communicate high FDI conditions to staff. Dangerous work/activities such as welding, for example, should be banned on orange and red FDI days.

The daily FDI reading and colour be displayed in areas where it can be easy observed (Entrance of Estate, residential village and store area).

As part of the protection and prevention tactics, the following training for general staff should take place annually as specified by the goFPA:

- Basic fire fighting
- Basic safety induction

63/110

- First aid level 1 (As stipulated by the OSH Act)
- Basic fire awareness workshops
- Advanced fire management courses are recommended for the owner e.g. Fire boss I & II and Basic Incident Command.

These courses should be scheduled in advance each year and names of staff nominates as well as times of courses displayed and budgeted for. Refer to Annexure 6 for course scheduling.

4.2 Enforcement

People living and working on the Estate should adhere to the basic fire safety rules laid down by the owner. These may include:

- People should only smoke in designated smoking areas on the farm.
- No open fires should be allowed during orange and red FDI weather.
- Fires should only be made in designated areas. (Ensure availability of water to extinguish sparks).
- All fires on or near the farm should be reported.
- Burning of rubbish in designated areas only.
- Burning material as well as hot ash from fireplaces should be put out with water to ensure that the risk of fire is removed.

4.3 Engineering

Refer to Table 1, Annexure 18 as well as Chapter 3 for engineering interventions in high risk areas.

4.4 National Veld and Forest Fire Act NVFFA (Act 101 of 1998)

- All landowners should adhere to all requirements for safe fire management as laid down by the NVFFA.

5 SUPPRESSION

Suppression refers to activities contributing to the extinguishing and prevention of the spread of an unwanted fire. Suppression efforts prioritise the protection of lives, assets and the environment. Suppression includes the following activities:

- Detection: - Unwanted fires have to be identified and reported to the correct people as soon as possible.

64/110

- Standby: - During high fire danger season, staff members should be identified who must be available after hours to suppress fires.
- Mobilisation: - Resources should be mobilised and deployed rapidly to the fire in an orderly and pre-arranged manner.
- Initial attack: - First resources to arrive at the fire should hit the fire in full force to extinguish it while still small.
- Extended attack: - If the initial attack fail, the attack are extended to more resources and planning done for an extended period of fire suppression.
- De-mobilisation: - Once the fire is controlled, the fire incident commander will release resources in a logic and orderly manner.
- Patrol & guarding: - the fire area has to be guarded for an extended period until there is no risk of a flare-up.
- Post-mortem: - After the fire is investigated, assessed and documented, the events are discussed amongst role players to prevent a re-occurrence or to improve on performances at the fire.

5.1 Suppression Objectives

Effective suppression of fires can only be done if clear suppression objectives are identified and upheld. Suppression is only possible if all resources are known and ready once a fire is reported. These objectives typically include the following:

- **Be ready to suppress fire during high fire danger periods:** - During high fire danger periods, there should be a team on callout standby to suppress fires after working hours and over weekends. The staff should be divided into at least two teams that can perform standby duty every alternative week. Teams on standby duty should be available close/on the estate and be in a position to react reasonably fast to a fire and be sober and dressed in safety gear. These teams should include a manager, supervisor, drivers, labour and an admin (logistic) person. In case of a fire and under high fire danger conditions, all available staff will be engaged in the fire suppression effort.
- **React to fires fast and extinguish the flames effectively as soon as possible:** - Once the fire alarm has been sounded, staff must proceed to the dispatch area where they can be mobilised. Everyone should arrive at the fire scene as quick as possible with the correct vehicles and tools.

65/110

- **Control and Confine the fire to a small area:** - Safety of staff should be observed at all times. Once flames are knocked down, a control line (small belt cleared to mineral soil) should be constructed around the perimeter of the burned area. The width of this control line is dependent on the adjacent vegetation and the current and future weather expected. It should be cleared to mineral soil and be wide enough to prevent any smouldering material inside the burned out area to cross into the adjacent unburnt fuels.
- **Prioritise high-risk areas:** - Once a veldfire is threatening the property, the incident commander has to prioritise the areas/infrastructure that are the most vulnerable and focus fire suppression efforts to protect these. It should be kept in mind that this might include preventing a fire to escape to neighbouring properties to avoid legal accountability.
- **Mop-up the area in a manner that the fire will not restart:** - As soon as the control line has been constructed, a strip of \pm 30m from the control line inwards, into the burnt area, should be mopped-up. During this operation, all smouldering material on top of the soil and under the soil (ground fires) should be extinguished completely.
- **Patrol and guard the area until the fire is *dead out*:** - Patrolling should commence immediately after the fire has been controlled. The area should be guarded by staff 24 hours a day for at least 7 days after mopping-up has been completed. It is recommended that the area should be patrolled until the mop-up area has received the equivalent of 25mm water. The 7-day guarding period can be extended or resumed if the incident commander has any suspicion that the fire might reignite.
- **Safety of Firefighters:** - Safety of people should be the highest priority during suppression. All fire fighters at the fire should have received basic firefighting training from an accredited provider. If an untrained person is injured at the fire the person in charge of the fire will be held accountable. All firefighters must wear personal protective gear. Minimum requirements include:
 - Full body cotton overall
 - Leather boots (without metal toe caps)
 - Leather gloves
 - Hat

Additional safety gear is optional.

5.2 Basic Suppression Tactics

If the fire behaviour allows, a direct attack should be attempted with a combination of staff and equipment. This usually implies that the fire is attacked from the rear and when possible, firefighters move up the flanks towards the head of the fire, while patrolling the extinguished perimeter.

As an alternative, if fire behaviour is too dangerous for a direct attack, a defensive approach can be followed by burning out unburned vegetation in front of the fire from internal belts/barriers or attempting to stop fires against internal belts. The burnout tactic is usually practiced if an approaching fire is closing in on the estate coming down the mountain. Fighting fire with fire is very dangerous and should only be used as a last resort. Unexperienced persons should not attempt this.

As a final tactic, fire fighters simply wait for fire at belts/barriers and prevent it from crossing these barriers. This is usually done when there is very few fire fighters. This might also create a potentially dangerous situation if the fire behaviour is very dangerous, and escape routes should be identified and kept open.

5.3 Fire Action Plan

An action plan should inform each staff member about his/her responsibilities once a fire has been reported. Refer to Annexure 8 for a detailed action plan. In addition, all staff should be trained to be competent in the execution of their tasks.

5.4 Maintenance of Fire Management Plan

This plan should be revised annually before September.

Annexure 2: Contact Details of Role Players

| Name | Farm name & portion | Tel number | Email address |
|--------------------|---|------------------------------|-----------------------------------|
| Kobus van Zyl | Sandford farm (RE/2/587) | 076 215 4805 | admin@hnaastud.co.za |
| Pieter Sham | Pieter Sham farm (45/587) | 082 555 6440 | petersham@twk.co.za |
| Neville Howarth | De Werf (50/587 & 15/587) (Luxurious homes) | 083 325 1384 | |
| Brain Frost | Clouds End (RE/7/587) – (apple farm below shell blocks) | 083 252 5888 | brainf@africa.com |
| Andries Gotze | Spookfontein (8/587) –(where blue gums are cut out) | 073 067 7936 | |
| RW Erwee | Erijiesvlei (17/587) – (Farm producing vine cuttings) | 082 927 2148 | erwee@twk.co.za |
| Willie Beukes | Erijiesvlei (RE/587) – mostly grazing fields and Fynbos | 082 944 9194 | |
| Helgardt Ackermann | Gazate Site (88/587) – (middle of Haygrove Heaven) | 082 875 6395 | |
| Louise Wessels | Overberg FPA manager | 063 650 7899 | manager@overbergfpa.co.za |
| Pieter Steenkamp | Local FPA representative | 076 274 1800 028 425 1690 | info@overbergfpa.co.za |
| | ODM 24h control room | 028 425 1690 | https://overbergfpa.co.za/ |
| | Hermanus fire department (Overstrand) | 028 312 2400 | |
| Pieter Viljoen | CapeNature | 082 740 7736 | pviljoen@capenature.co.za |
| Chris Martiens | Fynbos trust | 082 351 8963 | |
| Dr Odette Curtis | Overberg renosteriveld conservation trust | 083 551 3341 | info@overbergrenosteriveld.org.za |

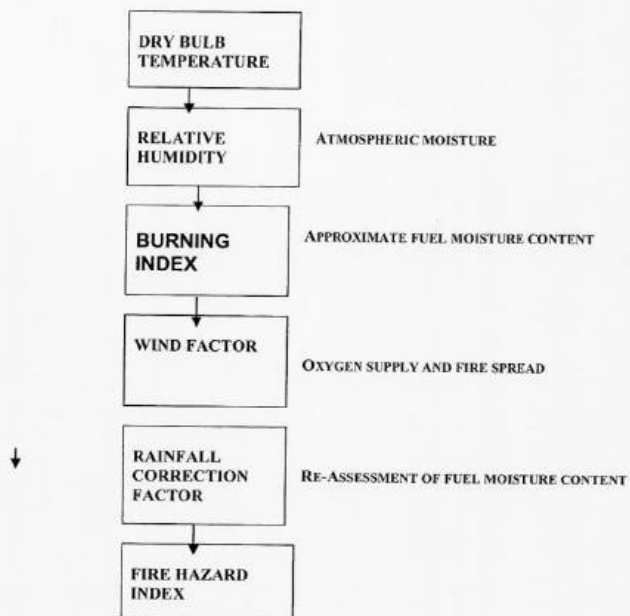
68/110

69/110

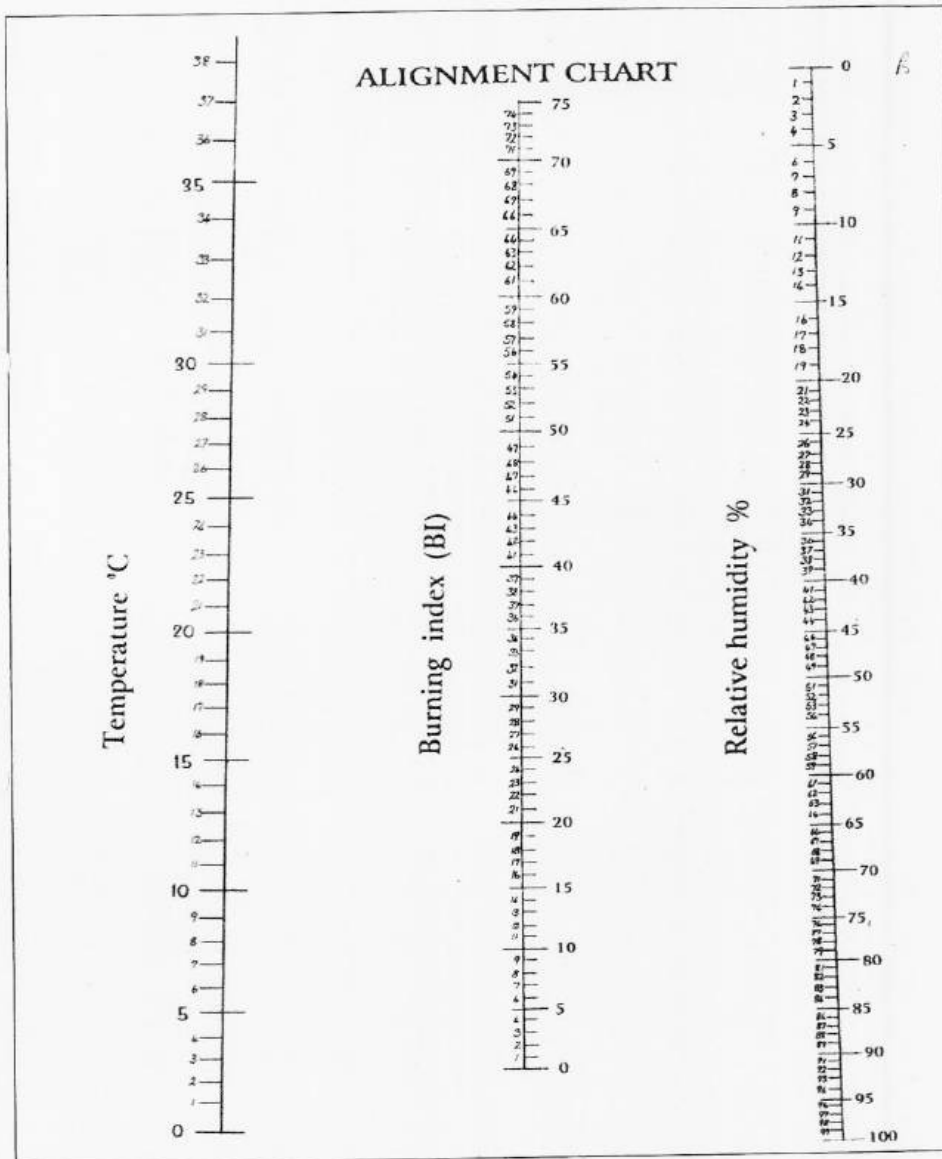
Annexure 3: Fire Danger Index (FDI)

The fire danger index system is the collection of weather observations and the analysis of the data to give a prediction of the daily fire potential. These predictions must be in line with on-the-spot assessments by experienced field personnel. A measure of the accuracy of the predictions can also be obtained by recording and comparing the damage caused by fires to the fire danger index for the period during which the fire was burning.

The Lowveld FDI system (Official system is SA) is based on the system proposed by Laing. In this system, the index is calculated daily at 10h00 and 14h00. The relative humidity and dry bulb temperature are used with an alignment chart to calculate the burning index. Wind strength provides a spread danger and is added to the index, while the fuel moisture is taken into account by multiplying the index by a rainfall correction factor, the result being the fire danger index (FDI).



70/110



71/110

Wind adjustment factors to be added to the Burning Index (B.I.) to calculate the Fire Danger Index.

| Wind speed km/hour | Correction factor to be added to B.I. |
|-----------------------|--|
| 0-1 | 0 |
| 2 | 4 |
| 3-4 | 5 |
| 5 | 6 |
| 6 | 9 |
| 7-15 | 10 |
| 16 | 11 |
| 17 | 14 |
| 18-24 | 15 |
| 24 | 15 |
| 25 | 16 |
| 26 | 19 |
| 27-31 | 20 |
| 32 | 21 |
| 33 | 24 |
| 34-35 | 25 |
| 36 | 26 |
| 37 | 29 |
| 38-40 | 30 |
| 41 | 31 |
| 42 | 34 |
| 43-44 | 35 |
| 45 | 36 |
| 46 | 40 |

Lang's (1978) rainfall correction factors used to adjust the Burning Index to account for antecedent moisture conditions, after adjustment for wind. Wind adjusted burning indices are multiplied by the correction factor to derive a Fire Hazard Index.

$FDI = (BI + Wind\ Factor) \times Rainfall\ Correction\ Factor$

| Rainfall mm | Number of days since rain last fell | | | | | | | | | | | |
|----------------|-------------------------------------|-----|-----|-----|-----|-----|-----|------|-------|-------|-------|-----|
| | 1 | 2 | 3 | 4 | 5 | 6 | 7-8 | 9-10 | 11-12 | 13-15 | 16-20 | |
| 0.1 - 2.6 | 0.7 | 0.9 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| 2.7 - 5.2 | 0.6 | 0.8 | 0.9 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| 5.3 - 7.6 | 0.5 | 0.7 | 0.9 | 0.9 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| 7.7 - 10.2 | 0.4 | 0.6 | 0.8 | 0.9 | 0.9 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| 10.3 - 12.3 | 0.4 | 0.6 | 0.7 | 0.8 | 0.9 | 0.9 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| 12.9 - 15.3 | 0.3 | 0.5 | 0.7 | 0.8 | 0.8 | 0.9 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| 15.4 - 20.5 | 0.2 | 0.5 | 0.6 | 0.7 | 0.8 | 0.8 | 0.9 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| 20.6 - 25.5 | 0.2 | 0.4 | 0.5 | 0.7 | 0.7 | 0.8 | 0.9 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| 25.6 - 33.4 | 0.1 | 0.3 | 0.4 | 0.6 | 0.6 | 0.7 | 0.8 | 0.9 | 1.0 | 1.0 | 1.0 | 1.0 |
| 38.5 - 51.1 | 0 | 0.2 | 0.4 | 0.5 | 0.5 | 0.6 | 0.7 | 0.8 | 0.9 | 1.0 | 1.0 | 1.0 |
| 51.2 - 63.3 | 0 | 0.2 | 0.3 | 0.4 | 0.5 | 0.6 | 0.7 | 0.7 | 0.8 | 0.9 | 1.0 | 1.0 |
| 63.4 - 76.5 | 0 | 0.1 | 0.2 | 0.3 | 0.4 | 0.5 | 0.6 | 0.7 | 0.8 | 0.9 | 1.0 | 1.0 |

| FDI Description | Colour | Category | FDI Precaution |
|---------------------|--------|----------|---|
| SAFE | BLUE | 0 - 20 | Low fire hazard. Controlled burn operations can normally be executed with a reasonable degree of safety. |
| MODERATE | GREEN | 21 - 45 | Although controlled burning operations can be executed without creating a fire hazard, care must be taken when burning on exposed, dry slopes. Keep constant watch for unexpected wind speed and direction changes. |
| DANGEROUS | YELLOW | 46 - 60 | Controlled burning not recommended when fire danger index exceeds 45. Assistance should be called in at early stages of a fire. Controlled burning should only attempted with the support of experienced fire managers and sufficient resources. |
| VERY DANGEROUS | ORANGE | 61 - 75 | No controlled burning of any nature should take place. Careful note should be taken of any sign of smoke anywhere, especially on the upwind side of the estate. Any fire should be attacked with maximum force at hand. Alert all staff about FDI. |
| EXTREMELY DANGEROUS | RED | 75 < | Alert all staff about FDI. A senior manager should be available at all times in case a fire is reported. No open fires or dangerous activities should be allowed on the estate. All staff and equipment are to be placed on full standby. At first sign of smoke, every possible measure should be taken to bring the fire under control in the shortest possible time. All available support to be acquired immediately. |

Field method to determine FDI

Put your finger in your mouth, wet it and stick it up in the air to dry:

- 10 Sec = Red FDI
- 15 Sec = Orange FDI
- 20 Sec = Yellow FDI
- 30 Sec = Green FDI
- 40 Sec = Blue FDI

72/110

Annexure 4: Own Fire Resources

| Item | Recommended | Available |
|--|-------------|--|
| Bakkiesakkie (500l water) | 1 | 1 x 600 l |
| Water tanker or stored water capacity Min. 1 000 l | 1 | 2 x 1000 l |
| Fire beaters | 10 | 13 |
| Rakehoes | 5 | |
| Knapsack pumps | 5 | |
| Slashers | 4 | |
| Trained Fire Fighters (Basic firefighting) | | 24 Trained |
| Torches | 5 | |
| Drip torch plus 20 litre mixture | 2 | |
| Radios with spare batteries | 15 | 35 |
| Mobile water pumps | 2 | |
| Other | | <ul style="list-style-type: none"> • 1x 90kw 4x4 tractor with disc • 1x JCB digger • Quad bikes x 4 |

13/110

Annexure 5: Neighbour's Fire Equipment

| Item | Recom. | Sandford (RE/2/587) (113ha) | Pieter Sham (45/587) (60ha) | De Werf 50/587 & 15/587 (16.2ha) | Clouds End (RE/7/587) (23ha) | Spookfontein (8/587) (317ha) | Ertjesvlei (17/587) (59ha) | Ertjesvlei (RE/587) (187ha) | Gazate Site (88/587) (39ha) |
|---|--------|-----------------------------------|-----------------------------------|--|------------------------------------|------------------------------------|------------------------------------|-----------------------------------|-----------------------------------|
| Bakkie sakkie (500l water) | 1 | ? | ? | ? | ? | ? | 1 x 1000 £ | 2 | |
| Water tanker stored water capacity Min. 1 000 £ | 1 | ? | 1 x 1500 £ | ? | 2 x 1500 £ | | 2 x 1000 £ 1 x 2000 £ | 1 x 5000 £ 1 x 2500 £ 1 x 8000 £ | 1 x 1000 £ |
| Fire beaters | 10 | ? | ? | ? | 10 | ? | 4 | 3 | 5 |
| Rakehoes | 5 | ? | ? | ? | ? | ? | ? | ? | ? |
| Knapsack pumps | 4 | ? | ? | ? | ? | ? | ? | ? | ? |
| Slashers | 1 | ? | ? | ? | ? | ? | ? | ? | ? |
| Trained Fire Fighters (Basic fire fighting) | | ? | ? | ? | ? | ? | 15 Untrained, only 4 over weekends | 16 Trained | ? |
| Torches | 5 | ? | ? | ? | ? | ? | ? | ? | ? |
| Drip torch plus 20 litre mixture | 1 | ? | ? | ? | ? | ? | ? | ? | ? |
| Other | | 1x JCB | | | | | | | |

74/110

Annexure 6: Training Needs

| NAME | SURNAME | ID No | JOB TITLE | PROVIDER | COURSE NAME | DATE |
|------|---------|-------|-----------|----------|---------------------|------|
| | | | | | Fire Boss I | |
| | | | | | Prescribed burning | |
| | | | | | Basic Fire Fighting | |
| | | | | | Basic Fire Fighting | |
| | | | | | Basic Fire Fighting | |
| | | | | | Basic Fire Fighting | |

Annexure 7: Responsibilities of Staff

| Name | Responsibilities | Activities |
|------------------------|--|---|
| Stephan Strauss | Incident commander | Responsible for all fire management functions (Planning, leading, organizing & control). Facilitate fire management activities (protection, prevention and suppression). Strategic and tactical planning, budgeting, fire incident commander, maintenance of fire management plan and welfare of staff. |
| Asawela | Communications and Administration | Receive and share daily FDI reading, have lists of telephone numbers and contact details of staff, neighbours, fire authorities and emergency services. Responsible to facilitate all communication during fire incident. Keep records of staff training and file all check lists. |
| Damian | Health & Safety | Order, distribute and check safety clothes of fire fighters, ensure first aid kits are up to date, perform safety checks on fire equipment and tools and keep records, give safety talks to fire fighters, conduct safety meetings. |
| Herman de Wet | Deputy Incident Commander | Perform management tasks in the absence of the IC, organise 3 x firefighting crews (people, tools and equipment), draw up standby team lists, schedule and control standby during high fire danger periods. Ensure that crews are mobilised and deployed to fire scene. |

76/110

| | | |
|-----------------------------------|----------------------------------|---|
| Alwin Prins | Storeman | Do regular checks on tools and equipment and facilitate maintenance thereof. Keep tools and equipment safe in storage. Manage support equipment and supplies. Keep record of tools and equipment, and store in dedicated building. Perform logistical administration to ensure tools, equipment and supplies are serviceable and available. |
| Altus, Sipiwe & Khonde | Crew leaders 1, 2 & 3 | Ensure firefighting crews are prepared and ready in case of fires (health & safety). Lead crew members to perform tasks productive and safe. |
| Bothwell | Vehicle Logistics | Perform pre-trip checks on fire fighting vehicles for road worthiness and serviceability (pipes, pumps, nozzles, water, fuelled up and hand tools on vehicles). Allocate vehicles and drivers to crew leaders and to other tasks. |
| Hendrik Prins | Fire Marshall | Regular checks on waterpoints, roads and dams and fire belts. Inspection of all infrastructure (buildings and tunnels) to ensure fire safety. Ensure refilling hoses and water pumps are available and serviceable in the event of fires. Check safety zones and escape routes. Assist with evacuation of staff and seasonal workers during emergency situations. |
| Edwill Pieterse | Initial attack | Allocate radios and call signs to firefighting crews and other role players. Make sure radio batteries are charged and spare batteries available. Do regular radio checks during high FDI days. Lead initial attack and direct resources at fire. |

77/110

Annexure 8: Action Plan for Suppression

| | BLUE (safe) | GREEN (moderate) | YELLOW (dangerous) | ORANGE (very dangerous) | RED (extremely dangerous) |
|---|-----------------------|----------------------------|---|---|---|
| Stephan Strauss (IC) 072 810 4860 Stephan Strauss stephanstrauss@havgrove.net | None | Regular check of weather | Regular weather check. No further than 1 hour from farm. Must be able to ready staff & equipment within 45 minutes. Inform staff about FDI. | On farm/30min away from farm. In communication with staff. Inform all about FDI. | On farm at all times. Part of standby team. In communication with staff. Toolbox talks with staff. Inform all about FDI. Ensure readiness of staff. |
| Asawela (Communication) | None | None | Ensure communication system functional | Man communication lines (telephone and radio). Available on farm within 1-hour when needed. | Available on farm. Regular communication checks. Check and report weather & FDI regularly |
| Damian (Health & Safety) | None | None | None | Safety inspection of fire crews, safety talks. | Safety inspection of fire crews, safety talks. |
| Herman de Wet (Deputy IC) 082 608 7799 hermandewet@havgrove.net | None | None | Be aware of whereabouts of crews. | On farm at all times. Crews close to store (equipment) in communication with crew leaders. | On farm at all times. Part of standby team. Ensure all crew members are ready, equipment & tools ready. Regular communication with crew leaders. |
| Alwin Prins (Storeman & logistics) | None | None | If not on farm, arrange to provide tools if needed. | Test and inspect tools & equipment. Ready for handing out. | Available at store. Test and inspect tools & equipment. Ready to hand out. |

| | | | | | |
|---|------|------|---|---|---|
| Altus, Sphiwe, Khonde (Crew leaders) | None | None | Be aware of whereabouts of crewmembers. | Work close to pick-up point with crews. Ensure crew members are dressed in safety gear. | Gather teams, ready to suppress fires (Food water). Revision of basic fire techniques. |
| Bothwell (Vehicles) | None | None | Be aware of whereabouts of firefighting vehicles. | Inspection of firefighting vehicles and equipment. | Mechanic on standby. Inspection of firefighting vehicles and equipment. |
| Hendrik Prins (Fire marshal) | None | None | Aware of whereabouts of workers on estate | Inspect all water refill points. In communication with work force and IC. Inspect infrastructure for fire safety. | Activate water points and dam refill points. Communicate to work force and alert about high FDI. Inspect safety zone and escape routes. Review evacuation procedures. Inspect infrastructure. |
| Edwill Pieterse (Initial attack) | None | None | 30 min from Estate – vehicle with bakkiesakkie available. | On farm and in contact with IC, have fire equipment and tank loaded. Do radio checks. | Patrol high risk areas. Work close to pick-up point. Bakkiesakkie with helper ready. Ensure communication with all staff members (spare radios with batteries available). |

79/110

80/110

Annexure 9: Belts, Blocks & Water Points



Legend
Road Lines
Water (Reservoir, Dam, Pond)
Canals
Belts
Water Points

0 0.125 0.25 0.5 km
Scale: 1:5,000
Data created: August 28, 2019



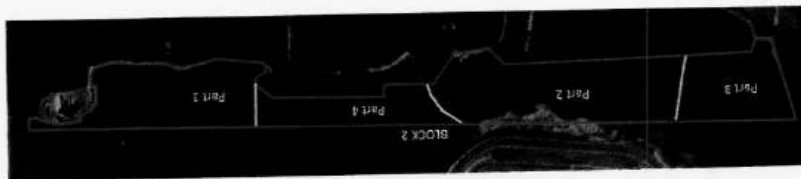
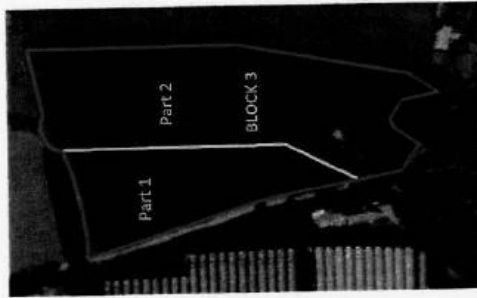
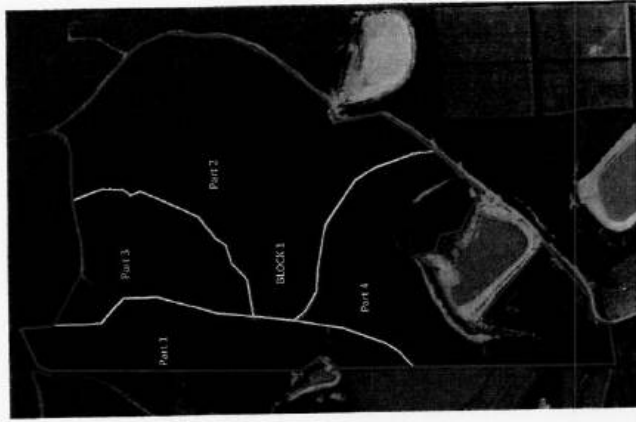
Annexure 10: Grow Tunnels



81/110

82/110

46



Annexure 11: Internal Blocks

83/110

Annexure 12: Dates of Burning**Blocks and subdivisions of blocks with dates of prescribed burning.**

| Block | Sections | Area (ha) | Date | Date | Date | Date |
|---------|----------|-----------|------|------|------|------|
| Block 1 | Part 1 | 3 | 2024 | 2036 | 2048 | 2060 |
| | Part 2 | 7.8 | 2020 | 2032 | 2044 | 2056 |
| | Part 3 | 2.6 | 2022 | 2034 | 2046 | 2058 |
| | Part 4 | 5.3 | 2025 | 2037 | 2049 | 2061 |
| Block 2 | Part 1 | 1.4 | 2020 | 2032 | 2044 | 2056 |
| | Part 2 | 2 | 2024 | 2036 | 2048 | 2060 |
| | Part 3 | 0.7 | 2025 | 2037 | 2049 | 2061 |
| | Part 4 | 1 | 2022 | 2034 | 2046 | 2058 |
| Block 3 | Part 1 | 1.6 | 2023 | 2035 | 2047 | 2059 |
| | Part 2 | 2.2 | 2021 | 2033 | 2045 | 2057 |
| Block 4 | Part 1 | 0.4 | 2021 | 2033 | 2045 | 2057 |
| | Part 2 | 0.4 | 2023 | 2035 | 2047 | 2059 |

Chronological Sequence for Burning all Blocks

| Block | Sections | Date | |
|---------|----------|------|----------|
| Block 1 | Part 2 | 2020 | } 9.2 ha |
| Block 2 | Part 1 | 2020 | |
| Block 3 | Part 2 | 2021 | } 2.6 ha |
| Block 4 | Part 1 | 2021 | |
| Block 1 | Part 3 | 2022 | } 3.6 ha |
| Block 2 | Part 4 | 2022 | |
| Block 3 | Part 1 | 2023 | } 2.0 ha |
| Block 4 | Part 2 | 2023 | |
| Block 1 | Part 1 | 2024 | } 5.0 ha |
| Block 2 | Part 2 | 2024 | |
| Block 1 | Part 4 | 2025 | } 6.0 ha |
| Block 2 | Part 3 | 2025 | |

84/110

Annexure 13: Membership Fees for FPA

Greater Overberg Fire Protection Association
 Fire Station, Long Street, Bredasdorp, 7280. Tel: +2728 425 1690
 874215208 www.overbergfpa.co.za

| | |
|--|---|
| Haygrove Heaven (Pty) Ltd Mr C Groenewald PO Box 938 Hermanus 7200 | Tax Invoice |
| | Val no: 4368292195 Deliver to Haygrove Heaven |

| Account | Your Reference | Date | Page | Tax Reference | Document No | |
|---------|-----------------|------------|------|---------------|-------------|-----------|
| GO2079 | MEMBERSHIP FEES | 10/06/2019 | 1 | | IN17016 | Inclusive |

| Code | Description | Quantity | Unit | Unit Price | Disc% | Tax | Nett Price |
|---------|--|----------|------|------------|-------|--------|------------|
| 0235000 | Membership Fees: April 2019 - March 2020 | | | | | 15.00% | 1,937.75 |
| | Total: 71.2ha | | | | | | |
| | REF: GO2079 | | | | | | |

Banking details:
 Overberg FPA
 Account no: 4074323400
 Bank: ABSA, Bredasdorp

| | | |
|-----------------|-------|-----------------|
| Sub Total | | 1,665.00 |
| Discount @ | 0.00% | 0.00 |
| Amount Excl Tax | | 1,665.00 |
| Tax | | 252.75 |
| Total | | 1,937.75 |

85/110

Annexure 14: Agreements with Neighbours

**MEMORANDUM OF AGREEMENT FOR CLEARING AND
MAINTENANCE OF A FIRE BELT/BREAK AND COST RECOVERY IN
THE EVENT OF A FIRE**

Entered into and concluded between

Haygrove Heaven Portions 11/587 & 94/587

hereinafter referred to as Landowner "A", the one party

and

Sandford farm; Farm number RE/2/587

And hereinafter referred to as Landowner "B", the other party

A. Preamble

Wildfires periodically occur in the natural fynbos and karroid / thicket vegetation types that are to be found in the Cape Floristic Region. In terms of the National Veld and Forest Fire Act, 1998 (Act No. 101 of 1998 as amended) ("the Act") every owner of land has a duty to prevent a fire that originates on his or her land from spreading to any other property. Section 12(1) of the Act requires, amongst others, that landowners prepare and maintain firebreaks on the boundary of his/her land and any adjoining land. Section 12(7) of the Act however makes provision for situations where the optimal firebreak position may not be along a common boundary but rather at a position that is agreed to by the respective adjoining landowners.

In order to facilitate the optimal positioning of the required fire protection measures, the above-mentioned landowners and neighbours have met and mutually agreed upon the position, type and conditions pertinent to the construction and maintenance of the fire protection measures common to both landowners.

Now therefore the parties agree as follows:-

B. Duration

This agreement shall be for a period of (10) ten years as from 15 September 2019 and shall continue thereafter until terminated by ninety (90) days written notice by either of the parties hereto.

C. Alignment

The required firebreak as stipulated in section 12(1) of the Act will not be created and maintained along the common boundary but, in terms of Section 12(7), will be placed and maintained away from the common boundary along a route as described below and depicted in Annexure 1 respectively;

D. Description of and reason for repositioned fire-belt/break:

1. Route Description

The current fire break is located along the West side around a dam on Haygove Heaven farm premises as indicated in the attached annexure as line A,B,C,D. This belt shall be replaced by Belt 2 as indicated and regarded as the principle fire break between Haygrove Heaven Farm and Sandford farm.

The same will apply for the current break E,F on the West boundaries of Haygroven Heaven and will be replace with Belt 2, 3.

2. Reasons/motivation (i.e. improved access and utility)

The reason for the location of the fire break are as follows

87/110

- Ease of Accessibility (new location is against a road)
- Cos effective Maintenance
- Improved protection of infrastructure (new belt will include windbreak)
- The actual boundary between the properties is in or directly adjacent to a Wetland at this point with a sensitive ecology (E,F).

E. Terms and conditions:

1. Type

The said fire belt/break will be prepared and maintained by way of brush cut at least 3-5 meters wide in some parts and a access road in some parts will form part of the break.

Using the road is a result of the block layout and the nature of the commercial crop next to the boundaries – not area to create a specific fire belt alone.

2. Maintenance cycle

- 2.1 The said fire belt/break will be maintained, after initial preparation, on a annual basis. The fire belt/break will be brush cutting and the removal of all fuel material will be maintained.
- 2.2 The party conducting the maintenance activities must ensure that the fire belt/break is maintained to the same standard immediately after the initial preparation.

3. Obligations and Rights

- 3.1 The costs of preparing and thereafter maintaining, the said fire belt/break will be borne by Haygrove heaven alone. Haygrove Heaven will ensure the upkeep of the boundaries on their premises.
- 3.2 In the case where both parties share the fire break/ belt, neither party shall claim any compensation from the other party for any damage or loss suffered during such preparing or maintenance of a fire belt/break.
- 3.3 In the case where both parties share the fire break/ belt, if either party fail to carry out his obligations in terms of this agreement, the other party reserves the right to prepare or maintain such fire belt/break and to claim such actual expenditure in so doing from the other party.
- 3.4 Either party undertakes to give the other party no less than 30 days prior notice of his intention to prepare or maintain a fire belt/break.

- 3.5 Should any part of the fire belt/break which is to be cleared and maintained as shown on the attached sketch plan (Annexure 1) fall within or adjoining a road reserve of a public road, the party responsible for the supervision of that part of the fire belt/break preparation shall take all necessary precautions for the safety of any members of the travelling public using the said road during such preparation or maintenance activities

F. Special Conditions

Actions during a fire

1. Both parties agree to not hold the other party liable for any damages or loss suffered should a natural fire start in the area, or traverse the area, between the actual boundary and the agreed upon position of the fire-belt.
 2. Both parties will assist with the combating of a fire along the agreed upon fire-belt should a fire be approaching the fire-belt from one side or the other (as required by the Act).
- G. This agreement does not release the parties to this agreement from any other obligations defined in the Act or any other relevant legislation.**
- H. Any change in ownership of the properties applicable to this agreement will render this agreement null and void and this agreement must be re-negotiated with the new landowner.**
- I. No variation, addition, deletion, or agreed cancellation shall be of any force or effect unless in writing and signed by or on behalf of the Parties hereto.**

89/110

J. Notice and Domicilia

The Parties choose as their respective *domicilium citandi et executandi* for the purpose of giving or sending any notice provided for or necessary in terms of this Agreement, the following addresses -

Landowner "A"

Haygrove Heaven

Sean Tager

083 301 8747

Landowner "B"

Sandford farm; Farm number RE/2/587

Manager – Kobus van Zyl

076 215 4805

THUS DONE AND SIGNED AT STANFORD this day of 2019

AS WITNESSES

1.....

2.....

THUS DONE AND SIGNED AT Cape Town this day of 2019

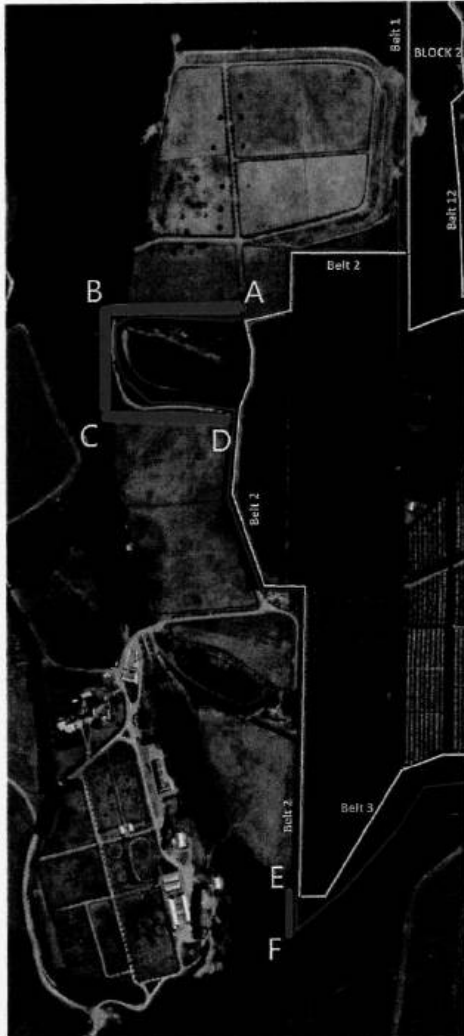
AS WITNESSES

1.....

2.....

90/116

Annexure 1: Exclusion from fire belt



91/110

Annexure 15: Greater Overberg Fire Protection Association Rules**Greater Overberg Fire Protection Association**

Fire Station, Long Street, Brandaards, 7280. Tel: +2728 425 1690
www.overbergfpa.co.za

**GREATER OVERBERG FIRE PROTECTION ASSOCIATION RULES**

These rules and regulations are to be adhered to by members of the Greater Overberg Fire Protection Association (goFPA) and where applicable will apply to ALL landowners residing within the goFPA area of operations in terms of the National Veld & Forest Fire Act 101 of 1998 (NV&FFA).

Table of Contents:

| | | |
|----|---|----|
| 1 | Terminology..... | 2 |
| 2 | Membership | 2 |
| 3 | Housekeeping..... | 3 |
| 4 | Fire Management Plan/Hazard assessment | 3 |
| 5 | Compliance with Fire Danger Rating System | 3 |
| 6 | Cooking/Warming Fires and designated fireplaces | 3 |
| 7 | Firebreaks..... | 4 |
| 8 | Prescribed burning | 6 |
| 9 | Minimum fire-fighting requirements | 7 |
| 10 | Training..... | 8 |
| 11 | Reporting Fires..... | 8 |
| 12 | Members' duties in respect of fire fighting..... | 8 |
| 13 | Operational response and management/Incident command..... | 9 |
| 14 | Actions after fires | 9 |
| 15 | Communications..... | 10 |
| 16 | Limitation of Liability | 10 |
| 17 | Enforcement | 10 |

General Manager: Louise Wassels

Fire Protection Officer: Reinard Geldenhuis
Chairman: Dr P Cluver

1 Terminology

- 1.1 **Bakkie Unit:** A water tank (250 - 700 litres) and pump which can easily be slipped onto the back of a bakkie. Or **Spray cart** with minimum of 500 litre capacity.
- 1.2 **Rake Hoe:** Hand held tool with a dual purpose head. Used to clear control lines during a fire.
- 1.3 **Fire beaters:** Hand held fire-fighting tool consisting of a wooden handle and a flexible flat rubber head.
- 1.4 **Knapsack Pump:** A hand operated 15 – 20 litre capacity water pump that is worn on the back of a firefighter.
- 1.5 **Drip Torch:** A hand held device for igniting fires. It consists of a fuel tank, a wick and nozzle through which the burning fuel is "dripped" onto vegetation.
- 1.6 **Landowner:** An "owner" means any landowner with a title deed as well as a lessee or other person legally controlling land, the executive body of a community, the manager of State land, and the chief executive officer of any local authority, or their duly appointed agents in the cases of State land (including SANDF land) and local authorities.
- 1.7 **Contractor:** a person/company who is hired to perform work or to provide goods at a certain price or within a certain time.
- 1.8 **Member:**
- 1.8.1 Any landowner in the area of the FPA may at any time become a member. Every municipality or organ of State must be a member.
- 1.8.2 All land owners as defined by the Act and within the domain of the FPA can become members.
- 1.8.3 All land owners, lessees, state entities, municipalities, or communities, who have applied for membership, completed and submitted membership application forms and who have paid their membership fees are members

2 Membership

Membership, member's duties and termination of membership is defined in Clause 8, 9, 10 and 11 of the goFPA Constitution.

93/110

3 Housekeeping

It is the responsibility of every member to ensure that the buildings on their property are protected and made safe against the danger of fire.

4 Fire Management Plan/Hazard assessment

Members will be required to carry out an annual fire hazard assessment by 30 September each year. These hazards must be included in and addressed by the Integrated Management Plan of their Fire Management Unit (FMU).

5 Compliance with Fire Danger Rating System

Members must be conversant with the daily fire danger rating system and comply with the instructions and rules pertaining to the danger ratings.

Tip: During Fire Season the FDI (week days) will be posted on our website (www.overbergfpa.co.za/FDI) or call our office at 028 425 1690.

6 Cooking/Warming Fires and designated fireplaces

- 6.1 Fires used for preparing meals, beverages or for warmth during cold conditions in the veld by farm or other workers must be located in fire-safe areas only.
- 6.2 Fires may not be left unattended and must be properly extinguished with water after use.
- 6.3 Fires may not be made:
 - a. If the weather conditions are unsuitable (fire danger rating is high: orange or red).
 - b. In areas that have not been sufficiently cleared of combustible material.
 - c. In areas with a deep litter layer.

94/110

- d. In no-fire zones as indicated by the landowner.
- e. Near thickets of dense vegetation or any other combustible material.
- f. In areas near wetlands with a thick peat layer.
- g. If the fire is to be left unattended.

- 6.4 Domestic/social fires used outside of residences must be managed carefully in designated safe areas.
- 6.5 Where situations arise that people have to prepare domestic meals on an outside fire, they must be informed in this regard by the property owner.

The landowner is responsible to inform contractors of this rule and remains responsible for the actions of said contractors.

Tips:

- a. Include a no fire policy into Contractor contracts; that Contractors have beaters & water on site
- b. Fire breaks around worker homes and open social areas

7 Firebreaks

7.1 Legislation

- According to the National Wild and Forest Fire Act (Section 12) every land owner on whose land a Wild fire may start or burn or from whose land it may spread must prepare and maintain a firebreak on his or her side of the boundary between his or her land and any adjoining land.
- According to Section 15 of the Act, Exemption from duty to prepare and maintain firebreaks may be granted by the Minister for good reason. Such an exemption may be subject to conditions. The Minister must consult the FPA before granting exemption.

95/110

7.2 Definition of a firebreak

- A firebreak is a natural or constructed barrier utilized to stop or check fires, or to provide a control line from which to work.

7.3 Firebreak requirements

According to Section 13 an owner who is obliged to prepare and maintain a firebreak must ensure that, with due regard to the weather, climate, terrain and vegetation of the area:

- Is wide enough and long enough to have a reasonable chance of preventing a wildfire from spreading to or from neighbouring land.
- Will not cause soil erosion.
- Is reasonably free of inflammable material capable of carrying a wildfire across it.

NB: Always take into account that some natural (or human made) veld conditions for example, recently burned veld (younger than 4 years), a natural Vlei, a dam or a river, old farmlands and floodplains can be regarded as a natural firebreak.

Table 1 shows the various terrain or land type relevant to this area and the width and method to create firebreaks.

| Land Type | Prescribed width (meters) | Recommended rotation | Recommended method |
|---|--------------------------------------|---|---|
| Stubble land/fallow land | 2 m | Annually | Plough, 'grop" on disturbed land only; cultivated by perennial none burnable crop |
| Fynbos/Natural veld agricultural land interface (except | Width = 2,5 x height (minimum = 5 m) | Initiation date: when the veld is 4 years old | Plough/grop on disturbed land only; Brush cut; hoeing allowed on slopes |

96/110

| Land Type | Prescribed width (meters) | Recommended rotation | Recommended method |
|---|--|-------------------------------------|--|
| stubble and Fallow land) | | Maximum age of break: 5 years | less than 30 degrees only. |
| Road verge. (Provincial and district roads) | 3 m on either side | annually | Plough, 'grop" on disturbed land only; brush cut, hoe, burn. |
| Alien infestations | Width = 2,5 x height (minimum = 5 m) | Dependent on the adjacent Land Type | Crop; brush cut; hoe (dependent on the adjacent land Type) |
| Labour cottages, Farm infrastructure and homesteads | 10 m | annually | Plough, 'grop" on disturbed land only, brush cut, hoe |
| Urban Wildland Interface | 20 m | Dependent on the adjacent Land Type | |
| Formally Protected Areas, Formal Forestry Plantations | As per protection (Fire break) plans approved by the FPO | | |

8 Prescribed burning

- 8.1 Members intending to conduct a prescribed burn must obtain a **Burning Permit** from the Fire Department to conduct the burn.
- 8.2 Neighbors and the Fire Protection Officer should be notified at least 24 hours before any fire is lit, and weather conditions should be monitored.
- 8.3 Final permission must be obtained from their local Fire Department the morning prior to the burn taking place.
- 8.4 A responsible person should be in attendance for the whole time a fire is lit and for a suitable mopping up period.
- 8.5 Members must observe all conditions of their Burning Permit

97/110

Tip: Burn permit applications can be downloaded from our website
www.overbergfpa.co.za

9 Minimum fire-fighting requirements

- 9.1 All members must comply with Chapter 5 of the NV&FF Act by having equipment, protective clothing and trained personnel as is reasonable for the extent of the member's property.
- 9.2 The Fire Services has the right to remove people from the fire, at their discretion, should they not have sufficient personal protective equipment.
- 9.3 Non-compliance to any or all of these minimum requirements (Table 2) have to be supported by the relevant FMU and approved by the Fire Protection Officer (FPO).
- 9.4 All members must ensure that in their absence there is a responsible person present on or near the property who will assist in extinguishing the fire and take reasonable steps to alert the FPO and neighbouring landowners/their agents.

Table 2: Minimum Fire fighting equipment

| Property Size (ha) | Bakkie Unit/spray cart Min 500 € | Water tanker or stored water capacity Min. 1 000 € | Water tanker Min. 2 000 € |
|----------------------|-------------------------------------|---|------------------------------|
| 1 – 20 | Avail. in 15 min* | Limited to an identified water source | NIL |
| 20 -100 | Avail. in 15 min* | 1 | NIL |
| 100 - 500 | 1 | 1 | NIL |
| 500 – 1 000 | 1 | 1 | NIL |
| 1 000 – 4 000 | 1 | NIL | 1 |
| 4 000 – 10 000 | 1 | NIL | 1 |
| Sawmill / Plantation | 1 | NIL | 1 |

98/110

* Must have access to a unit on a pre agreement with neighbours or FMU

Please note on Red FDI days a responsible and contactable person has to be on or near the property.

10 Training

- 10.1 Members/occupiers of land or their staff performing fire-fighting must partake in a basic fire-fighting course by an FPA approved Training Institution.
- 10.2 In-house refresher training must be conducted by the owner or his representative before 1 December each year.

Tip: Contact the FPA office to access training

11 Reporting Fires

- 11.1 Members must report all fires to the **Overberg Control Centre (028 425 1690)** or **Overstrand Fire and Rescue (028 312 2400)** and to the relevant Fire Management Unit (FMU) leader and neighbours.

Tip: FMU maps, Members and leader information on the FPA website www.overbergfpa.co.za or email: info@overbergfpa.co.za

12 Members' duties in respect of fire fighting

- 12.1 A member and / or landowner who becomes aware of a fire must—
- Report the fire to the Fire Brigade (ODM 24h control room 028 425 1690 or Overstrand 028 312 2400), and
 - Notify the FMU leader or, failing him or her, the FPA office, and
 - The owners of adjoining land; and
 - Do everything in his or her power to stop the spread of the fire.

99/110

- 12.2 A member and / or landowner who has reason to believe that a fire on any land may endanger life, property or the environment, may, together with any other person under his or her control, enter that land or land to which the fire can spread in order to prevent that fire from spreading or to extinguish it.

Tip: It is recommended that members ensure that **access routes** are identified and available for fire fighters and their vehicles to use.

13 Operational response and management/Incident command

- 13.1 Members must adhere to the firefighting command structure as per the goFPA Fire Management Plan and be conversant with the chain of command and communication procedures for your area.
- 13.2 Members must be aware that the CFO or his delegate will assume command upon arrival.
- 13.3 Members must verbally hand over the incident to the FPO and inform all other active participants at the fire of any specific danger areas.

14 Actions after fires

- 14.1 The perimeter must be patrolled and any smoldering material within 5m of the perimeter of the fire extinguished (Patrolling is especially necessary where underground fires may have occurred e.g. in dense litter or marshy ground.)
- 14.2 The FPO may conduct a fire debrief when necessary to discuss the actions during the fire especially where the fire spread across multiple properties.
- 14.3 Members should make every effort to attend debriefs of fires that they were involved in or were threatened by.

15 Communications

- 15.1 Members must ensure that some form of communication is achieved with their staff on the fire scene.
- 15.2 Cell phone numbers/Contact details of all members must be updated with the FPA as soon as reasonably possible after it has changed.
- 15.3 Members should identify and establish lines of communication once they arrive at a fire.

16 Limitation of Liability

- 16.1 Neither the goFPA nor any other person related thereto is liable for any damage or loss caused by—
 - a. The purported exercise of any power or performance of any duty; or
 - b. The failure to exercise any power or perform any duty,
- 16.2 In terms of these Rules and Regulations (to be read in conjunction with duties and responsibilities as contained in the Act), unless the goFPA or related person responsible did so—
 - a. In bad faith, if it relates to a power or duty in terms of Chapter 3 of the Act; or
 - b. Negligently or in bad faith, (as an FPA or as an appointed agent) in any other part of the Act.

17 Enforcement

The following will be the enforcement officers regarding provisions under the NV&FF Act, and the rules of the FPA as applied within the area of the FPA:

- a. The Fire Protection Officer
- b. The Fire Chief Officer of the ODM and Overstrand
- c. Any person delegated by a or b above.

End of document.

101 | 110

Annexure 16: Application for Burn Permit

| | | |
|---|--|--|
|  | OFFICE of the CHIEF FIRE OFFICER PO BOX 20 HERMANUS 7200 Tel: 028 313 5052 Fax: 028 313 1493 Email: fireadmin@overstrand.gov.za |  |
|---|--|--|

**APPLICATION FOR PERMIT TO DO CONTROLLED BURNING OVERSTRAND
COMMUNITY FIRE SAFETY BY-LAW: ARTICLE 35(4)**

**AANSOEK OM 'n PERMIT OM BEHEERDE BRAND UIT TE VOER OVERSTRAND
GEMEENTSKAPSBRANDVEILIGHEID ORDINANSIE 35(4)**

| PROPERTY DETAILS EIENDOM BESONDERHEDE | | | | | |
|--|--|----------|----------|----------|---------------------------|
| Name of Property <i>Naam van Eiendom</i> | Mark Area: | Gansbaai | Stanford | Hermanus | Kleinmond |
| Farm Number <i>Plaasnommer</i> | Erf: | | | | |
| OWNER'S DETAILS EIENAAR SE BESONDERHEDE | | | | | |
| Owner <i>Eienaar</i> | Person responsible for account: <i>Persoon verantwoordelik vir rekening</i> | | | | |
| Identity number <i>Identiteits Nommer</i> | Contact number <i>Kontak Nommer</i> | | | | |
| Postal Address <i>Pos Adres</i> | | | | | |
| Physical Address <i>Fisiese Adres</i> | | | | | |
| RESPONSIBLE PERSON VERANDWOORDELIKE PERSOON | | | | | |
| Person Name <i>Persoon Naam</i> | Person in control of the fire <i>Persoon in beheer van die brand</i> | | | | |
| Contact number (cell) <i>Kontak nommer (sell)</i> | | | | | |
| Email address <i>Epos adres</i> | | | | | |
| Radio Frequency <i>Radio Frekwensie</i> | | | | | |
| BURN AREA AND FLORA BRAND AREA EN PLANTEGROEI | | | | | |
| Reason for burning <i>Rede vir die brand</i> | | | | | |
| Type of vegetation <i>Tipe plantegroei</i> | | | | | |
| Size of burn area <i>Grootte van brand area</i> | | | | | Hectares <i>Hektar</i> |
| Rare and endangered species <i>Skaars en bedreigde spesies</i> | | | | | |
| Exotic species present <i>Indringer spesies teenwoordig</i> | | | | | |
| Age of the veld/vegetation <i>Ouderdom van veld/plantegroei</i> | Height <i>Hoogte</i> | | | | |

102 | 110

| | | | |
|--|--|---|--|
| Percentage of block <i>Persentasie van blok</i> | | Total number of heaps <i>Totale getal hope</i> | |
|--|--|---|--|

| | | |
|--|----------|----------|
| Sufficient protection around area <i>Genoegsame beveiliging om area</i> | Yes / Ja | No / Nee |
|--|----------|----------|

List danger flanks and reasons for it (eg old veld, alien infestation, mountain fynbos etc)
Lys gevaar flanke en die redes daar voor (bv. Ou veld, uitheemse plantegroei, berg fynbos ens.)

RESOURCES AT BURNING
HULPBRONNE TYDENS BRAND

| Description <i>Beskrywing</i> | Amount: Own <i>Getalle: Eie</i> | Amount: Ander <i>Getalle: Ander</i> |
|--|------------------------------------|--|
| Adequate Personal <i>Genoegsame Personeel</i> | | |
| Fire Beaters <i>Vuurplakke</i> | | |
| Tankers: < 1000 L <i>Tenders: < 1000 L</i> | | |
| Tankers: > 1000 L <i>Tenders: > 1000 L</i> | | |
| Water pumps with hoses <i>Waterpompe met pype</i> | | |
| WOF <i>WOF</i> | | |
| Overstrand Munic or District <i>Overstrand Munis of Distrik</i> | | |
| Other <i>Ander</i> | | |

LIST OF AUTHORITIES / PERSONS THAT WILL BE NOTIFIED
LYS VAN INSTANSIES / PERSONE WAT IN KENNIS GESTEL MOET WORD

NOTICE: The Applicant must inform all the relevant Authorities / Persons, fourteen (14) days prior to burning and on the day of burning before it starts. This is for example Overstrand Municipality Fire Department, the Fire Marshall of the area, Neighbours, Fire-Lookout Towers in vicinity and Fire Protection Officer.

KENNISGEWING: Die Aansoeker moet al die betrokke Instansies / Persone in kennis stel, veertien (14) dae voor die dag van brand, asook die dag van brand, voor die brandwerk begin. Dit is bv. Overstrand Brandweer, die Sel Leier van area, Bure, Vuur uitkyk punte in die omgewing en die Brand Beskermings Beampte.

| Name <i>Naam</i> | Alliance to Property <i>Verbintenis tot Eiendom</i> | Contact Number <i>Kontak Nommer</i> | Sign <i>Teken</i> |
|---------------------|--|--|----------------------|
| | | | |
| | | | |
| | | | |
| | | | |

If list is longer, attach extra sheet
Indien die lys langer is, heg aparte bladsy aan

103/110

| LEGEND INDEX | |
|---|--|
| Road <i>Pad</i> | |
| House or Building <i>Huis of Gebou</i> | |
| Brigade Vehicle <i>Brandweer Voertuig</i> | |
| Vehicle: Traktor / Trailer / Digger loader / Other <i>Voertuig: Trekker / Sleepwa / Stootskraan / Ander</i> | |
| River <i>Rivier</i> | |
| Railway Line <i>Spoorlyn</i> | |
| Fence <i>Heining</i> | |
| | |
| Hydrant <i>Brandkraan</i> | |
| Mountain Range <i>Berge</i> | |
| Dam <i>Dam</i> | |
| Bridge <i>Brug</i> | |
| Wind Direction <i>Wind rigting</i> | |

104/110

USE THIS PAGE FOR SKETCH OF AREA WHERE CONTROLLED BURN WILL OCCUR. GEBUIK HIERDIE
BLADSY VIR DIE SKETS VAN DIE AREA WAAR BEHEERDE BRAND SAL GEDOEN WORD.

- Supply a map or sketch of the block to be burned as well as immediate surrounding area. Indicate:
Voorstien in kart of skets van area waar brand gaan plaasvind so wel as om die onliggende area. Dui aan:
1. North | Noord
 2. Flanks | Flanke
 3. Access routes | Toevoer paale
 4. Dams for replenishment | Ligging van damme vir water behaal
 5. Danger areas | Omliggende gevaar areas
 6. Veld age on perimeter of blocks | Ouderdom van veld op buite grense van blokke
 7. Total area in km² | Totale area in km²

105/110

I, as owner/manager and responsible person for the above mentioned burn. I hereby declare that all information given is correct and that personnel and equipment as indicated in this application will be present during and after the burn. I also realize that I accept full responsibility for the burn and its consequences and that the burn will be guarded for a minimum time of 24 hours and until it is completely out and cold.

Ek as eienaar/bestuurder en verantwoordelike persoon vir bogenoemde brand. Hiermee verklaar ek dat alle gegewens in hierdie aansoek is korrek en dat alle personeel en toerusting in hierdie aansoek aangedui sal gedurende die brand op die toneel wees. Ek is bewus dat ek volle verantwoordelikheid vir enige gevolge wat deur die brand so ontstaan en dat die brand 'n minimum van 24 uur sal oppas totdat dit uit en koud is.

Signature
Handtekening

Name in print
Naam in drukskrif

Date
Datum

106/110

FOR OFFICE USE ONLY / SLEGS VIR KANTOOR GEBRUIK**REMARKS BY DELEGATE:
OPMERKINGS DEUR GEMAGTIGDE**

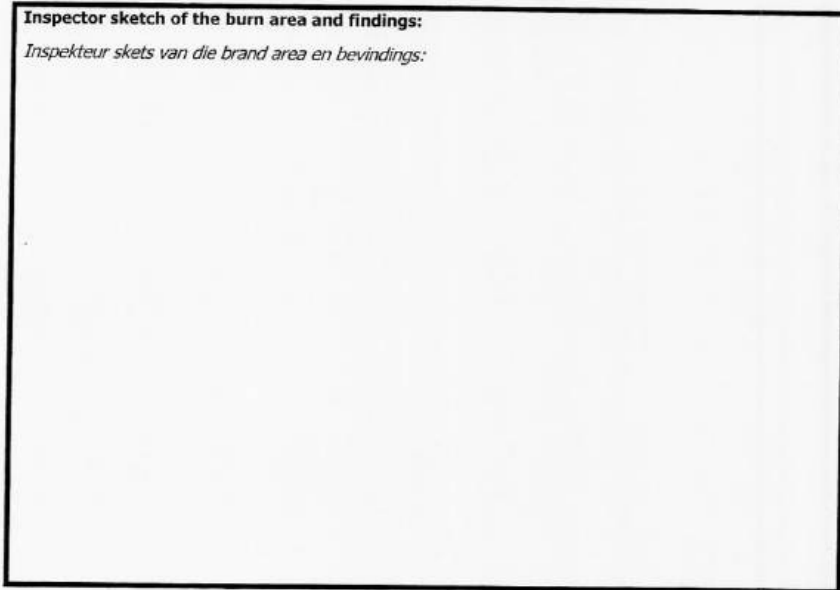
| | | |
|---|------------------------------|--------------------------------|
| Application is <i>Aansoek word</i> | Approved / <i>Goedgekeur</i> | Not approved / <i>Afgekeur</i> |
| Reason for not approved <i>Redes vir afkeur</i> | | |
| Permit issued by <i>Permit uitgereik deur</i> | Title <i>Titel</i> | Area <i>Area</i> |
| | | |

**CONTROL BURN PERMIT INSPECTOR'S REPORT
BEHEERDE BRAND PERMIT INSPEKTEURS VERSLAG**

| | | |
|---|-----------------------------------|-------------------------------------|
| Is the firefighting equipment of the applicant adequate for the Task? <i>Is die brandbestryding toerusting van die aansoeker voldoende vir die taak?</i> | | |
| Is the applicant a member of the local FPA? <i>Is die aansoeker 'n lid van die plaaslike FPA?</i> | | |
| Are there adequate fire breaks in place on the property and proposed burn area (in terms of the VFFA) <i>Is daar voldoende voorbrande in plek op die eiendom en die voorgestelde brand area (in terme van die VFFA)</i> | | |
| | Width <i>Breedte</i> | Condition <i>Toestand</i> |
| Property <i>Eiendom</i> | | |
| Proposed burn area <i>Voorgestelde brand area</i> | | |
| Are there vegetation risk areas within 50m of the proposed burn area? <i>Is daar plantegroei risiko areas binne 50m van die voorgestelde brand area?</i> | | |
| State type of risk eg. Fynbos, Plantation, Vineyard <i>Verklaar tipe risiko? Bv. Fynbos, Plantasie,</i> | | |
| Are there buildings that can be considered a risk within the area? <i>Is daar geboue wat 'n risiko in die gebied kan oorweeg word?</i> | | |
| State the type of building and distance from proposed burn area: <i>Verklaar die tipe geboue and afstand van die voorgestelde brand area:</i> | Buildings <i>Geboue</i> | Distance <i>Afstand</i> |
| | | |

107/110

Inspector sketch of the burn area and findings:
Inspekteur skets van die brand area en bevindings:



Inspector Report
Inspekteur Verslag

| |
|--|
| |
| |
| |
| |
| |
| |
| |
| |
| |

Signature / Handtekening

Date / Datum

Annexure 17: Veldfire Risk and Hazard Assessment Form (Infrastructure)

| Element | Points | Score | Notes |
|---|--------|-------|-------|
| A. Means of Access | | | |
| 1. Entry & exit roads | | | |
| a. Two or more roads in/out | 0 | | |
| b. One road in/out | 7 | | |
| 2. Road width | | | |
| a. More than 6 m | 0 | | |
| b. More than 6 m but less than 7 m | 2 | | |
| c. Less than 6 m | 4 | | |
| 3. All-season road condition | | | |
| a. Surfaced road, grade less than 20° | 0 | | |
| b. Surfaced road, grade greater than 21° | 2 | | |
| c. Gravel, grade less than 20° | 2 | | |
| d. Gravel, grade greater than 21° | 5 | | |
| 4. Municipal Fire Brigade service access | | | |
| a. Less than 9 m with turnaround | 0 | | |
| b. More than 9 m with turnaround | 2 | | |
| c. Less than 9 m with no turnaround | 4 | | |
| d. More than or equal to 9 m with no turnaround | 5 | | |
| 5. Road signs | | | |
| a. Present and reflective | 0 | | |
| b. Present but no reflective | 3 | | |
| c. Not present | 5 | | |
| B. Vegetation (Fuel Models) | | | |
| 1. Characteristics of dominant vegetation within, adjacent to and on property | | | |
| a. Light (alpine grasses, coastal fynbos) | 5 | | |
| b. Medium (short shrub and fynbos, moist savanna, gum, pine and wattle plantation) | 10 | | |
| c. Heavy (tall grass, mature mountain fynbos, dense woody alien plant invaders) | 20 | | |
| 2. Defensible space | | | |
| a. More than 30 m of vegetation treated around property | 1 | | |
| b. 22m to 30 m of vegetation treated around the property | 3 | | |
| c. 10 m to 21 m of vegetation treated around the property | 10 | | |
| d. 9 m of vegetation treated around the structure(s) | 25 | | |
| C. Dominant topography within 100 m of structures | | | |
| 1. Slope less than 5° | 1 | | |
| 2. Slope 6° to 10° | 4 | | |
| 3. Slope 11° to 15° | 7 | | |
| 4. Slope 16° to 20° | 8 | | |
| 5. Slope greater than 20° | 10 | | |
| D. Additional rating factors (rate all that apply) | | | |
| 1. Topographical features that negatively affect veldfire behaviour i.e. hot and dry northern slope aspects, gullies, kloofs | | | |
| | 0-5 | | |
| 2. Sources of possible ignition that occur within the area assessed. Rate severity on a scale of 1 to 5: | | | |
| • Frequent lightning | 0-5 | | |
| • Railways | 0-5 | | |
| • Mountain passes | 0-5 | | |
| • Power lines | 0-5 | | |
| • Picnic and camping sites | 0-5 | | |

109/110

| | | | |
|---|-----|--|--|
| 3. Areas that are periodically exposed to unusually severe fire weather and strong dry winds | 0-5 | | |
| 4. Neighbour boundary density factor, or potential sources of accidental ignition (add number of properties or neighbours per km) | | | |
| • Less than 1 per km | 1 | | |
| • 2-4 per km | 2 | | |
| • 5-7 per km | 3 | | |
| • 7-10 per km | 5 | | |
| • More than 10 per km | 10 | | |
| E. Dominant roofing type | | | |
| 1. Tin | 0 | | |
| 2. Slate or tile | 3 | | |
| 3. Asbestos | 15 | | |
| 4. Thatch | 25 | | |
| F. Dominant building construction type | | | |
| 1. Materials (dominant) | | | |
| a. Non-combustible/fire resistant walls, eaves & deck (stoop) | 0 | | |
| b. Non-combustible/fire resistant wall, combustible deck (stoop) | 5 | | |
| c. Combustible wall and deck (stoop) | 10 | | |
| 2. Building distance from the nearest slopes of 15° or more | | | |
| a. More than 10 m to slope | 1 | | |
| b. Less than 10 m to slope | 5 | | |
| G. Available fire protection | | | |
| 1. Water source availability | | | |
| a. Pressurised water source availability | 0-1 | | |
| b. Stand alone pump | 2 | | |
| c. Non-pressurized water source availability (off site) | 3-5 | | |
| d. Water unavailable | 10 | | |
| 2. Organised response resources | | | |
| a. Station is less than 8 km from structure | 1 | | |
| b. Station is more than 8 km from structure | 3 | | |
| 3. Fire detection facility | | | |
| • Camera monitored 24 hour | 1 | | |
| • Manned lookout | 2 | | |
| • Alternative plan | 4 | | |
| • Satellite | 6 | | |
| • None | 10 | | |
| H. Membership of Fire Protection Association/ FireWise community | | | |
| 1. Yes | 0 | | |
| 2. No | 20 | | |
| I. Safety zone | | | |
| 1. Does the community have a safety zone | | | |
| a. Barrier zone: 1.5 x the heights of the fuel. Refuge (FireWise) building (sufficient size), which is fire safe in a clearance, with very low fuel, with open space that is more than twice the height of surrounding vegetation | 0 | | |
| b. Barrier zone: less than 1.5 x the height of the fuel. No building | 10 | | |
| c. No Safety or evacuation zone | 20 | | |
| Total | | | |

| Total Points | Risk Assessment |
|-----------------------|-----------------|
| 1. Less than 40 | Low Risk |
| 2. Between 40 and 64 | Moderate Risk |
| 3. Between 65 and 109 | High Risk |
| 4. Greater than 109 | Extreme Risk |

110 | 110

Annexure 18: Safeguarding Houses From the Threat of Wildfire



Annexure F 1/2



Department of Environmental Affairs and Development Planning
Ntanganedzeni Mabasa
 Development Management: Region 1
Ntanganedzeni.Mabasa@westerncape.gov.za | Tel: 021 483 2803

REFERENCE: 16/3/3/6/E4/5/1337/20
INQUIRIES: Ntanganedzeni Mabasa
DATE: 25/8/2021

The Board of Directors
 Wrap Project Office
 P. O. Box 1247
HERMANUS
 7200

| | |
|------------------|---------------|
| FILE NO: | FIN 94/587 ✓ |
| | Hemel & Aarde |
| SCAN NO: | PTN 94 |
| COLLABORATOR NO: | 1577208 |

Attention: Thian Jansen

Tel.: (028) 313 1411
 Email: admin@wrapgroup.co.za

Dear Sir

THE APPLICABILITY OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA") ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED) WITH RESPECT TO THE APPLICATION FOR DEPARTURE AND AMENDMENT OF CONDITIONS OF APPROVAL ON PORTION 94 OF FARM HEMEL AND AARDE NO. 587, CALEDON.

1. The abovementioned document and letter, as received by this Department on 15 December 2020, this Department's response issued on 26 May 2021 and the electronic copy of the additional information dated 9 June 2021, as received by this Department on 10 June 2021, refer.
2. The Department's aforementioned correspondence highlighted listed activities that might be triggered by the proposed development, namely Activities 12, 19 and 27 of Listing Notice 1, Activity 24 of Listing Notice 2 and Activity 12 of Listing Notice 3 of the NEMA EIA Regulations, 2014. According to the additional information provided on 10 June 2021, the tunnels do not have any foundations, but will have 50mm diameter poles (footings) that are "screwed" up to 1m into the ground, impacting on 2.93m³ of soil. In addition, the plants will be grown in plant bags above ground, hence no clearance of vegetation will be required. Please be advised that since the poles will impact on less than 10m³ of soil, will have a cumulative physical footprint of less than 100m² and will not result in vegetation clearance. Activities 12, 19 and 27 of Listing Notice 1, Activity 24 of Listing Notice 2 and Activity 12 of Listing Notice 3 will not be triggered by the proposed development. Environmental Authorisation is therefore not required from this Department prior to the proposed development.
3. The applicant must comply with any other statutory requirements that may be applicable to the development.

www.westerncape.gov.za

Department of Environmental Affairs and Development Planning

30 AUG 2021

4. The applicant is reminded of his/her general duty of care and the remediation of environmental damage, Section 28(1) of NEMA specifically states that – "Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment."
5. The Department reserves the right to revise its comments and request further information from you based on any new or revised information received.

Yours faithfully

Digitally signed
by Andrea
Thomas
Date: 2021.08.25
13:26:24 +02'00'

**Andrea
Thomas**

**PP HEAD OF COMPONENT
ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 1
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**





**Western Cape
Government**
Environmental Affairs and
Development Planning



Annexure G
DEVELOPMENT MANAGEMENT: REGION 2

Angelina.Mable@westerncape.gov.za
Tel: +27 21 483 8354 Fax: +27 21 483 3633
Private Bag X9086, 1 Dorp Street, Cape Town, 8000
www.westerncape.gov.za/eadp

TP. A. Noord
(H. Olivier)

REFERENCE: 15/3/2/12/BO3

The Municipal Manager
Overstrand Municipality
P.O. Box 20
Hermanus
7200

For attention: H Olivier

| | |
|------------------|---------------|
| FILE NO: | PN 94/1987 ✓ |
| | Vland & Aarde |
| SCAN NO: | PTN 94 |
| COLLABORATOR NO: | 1395921 |

REQUEST FOR PLANNING COMMENT: DEPARTURE AND AMENDMENT OF CONDITIONS OF APPROVAL: PORTION 94 OF THE FARM 587, CALEDON

1. Your application, dated 20 January 2020, has reference.
2. After having had the opportunity to consider the application, this Directorate's planning component has no objection in respect of the proposed amendment of the conditions of approval and building line departures to allow the expansion of the intensive horticulture tunnels from 5,8727ha to 17,8444ha, on Farm 587 Portion 94, Caledon.
3. The main land use and the zoning will remain for agricultural purposes.
4. The Department reserves the right to amend its comment should any additional or new information be obtained.



DIRECTOR, DEVELOPMENT MANAGEMENT REGION 2
DATE 6.3.2020

Annexure H 1/2



Cor Van Der Walt
 LandUse Management
 Email: LandUse.Elsenburg@elsenburg.com
 tel: +27 21 808 5099 fax: +27 21 808 5092

OUR REFERENCE : 20/9/2/4/2/750
 YOUR REFERENCE : RCAL 94/587
 ENQUIRIES : Cor van der Walt/Kyle Solomons

Overstrand Municipality
 PO Box 20
 HERMANUS
 7200



Att: H van der Stoep

**APPLICATION FOR DEPARTURE AND AMENDMENT OF CONDITIONS OF APPROVAL:
 DIVISION CALEDON
 PORTION 94 OF THE FARM HEMEL AND AARDE NO 587**

Your application of 20 January 2020 has reference.

The Western Cape Department of Agriculture; Land Use Management (WCDoA; LUM) has no objection to the proposed application.

Please note:

- That this is comment to the relevant deciding authorities in terms of the Subdivision of Agricultural Land Act 70 of 1970.
- Kindly quote the above-mentioned reference number in any future correspondence in respect of the application.

- The Department reserves the right to revise initial comments and request further information based on the information received.

Yours sincerely



Mr. C. van der Walt

LANDUSE MANAGER: LANDUSE MANAGEMENT

2020-06-01

Copy:

Department of Environmental Affairs & Development Planning

1 Dorp Street

CAPE TOWN

8001

Annexure I 13



The Municipal Manager
OVERSTRAND MUNICIPALITY
 P O Box 20
HERMANUS
 7200
 Per email: loretta@overstrand.gov.za
Attention: Loretta Gillion

Date:
 17 March 2020

Enquiries:
 Shaun Swanepoel
 Tel 021 980-3913
 Fax 086 660 0941

Dear Madame

RE: ERF 94 OF FARM HEMEL & AARDE NO 587

OUR REF: 00184-20

This application affects the following Eskom power line:

- **HERMANUS FARMERS 1 OVERHEAD FEEDER**

Eskom has no objection to the abovementioned application, provided the following conditions are adhered to:

- a) The following building and tree restriction on **either side of centre line** of overhead power line must be observed:

| Voltage | Building restriction either side of centre line |
|---------|---|
| 11kV | 9.0 m |
| 66 kV | 11.0 m |
| 132 kV | 15.5 m |

- b) No construction work may be executed closer than **6 (SIX) metres** from any Eskom structure or structure-supporting mechanism.

- c) No work or no machinery nearer than the following **distances from the conductors**:

| Voltage | Not closer than: |
|---------|------------------|
| 11kV | 3.0 m |
| 66kV | 3.2 m |
| 132kV | 3.8 m |

- d) Natural ground level must be maintained within Eskom reserve areas and servitudes.

- e) That a **minimum ground clearance** of the overhead power line must be maintained to the following clearances:

| Voltage | Safety clearance above road: |
|---------|------------------------------|
| 11kV | 6.3 m |
| 66kV | 6.9 m |
| 132kV | 7.5 m |

Distribution Division - Western Region [Land Development]
Western Region
 Eskom Road Brackenfell 7560 PO Box 222 Brackenfell 7561 SA
 Tel +27 85 003 7566 www.eskom.co.za

Eskom Holdings SOC Limited Reg No 2002/015527/30



2/3

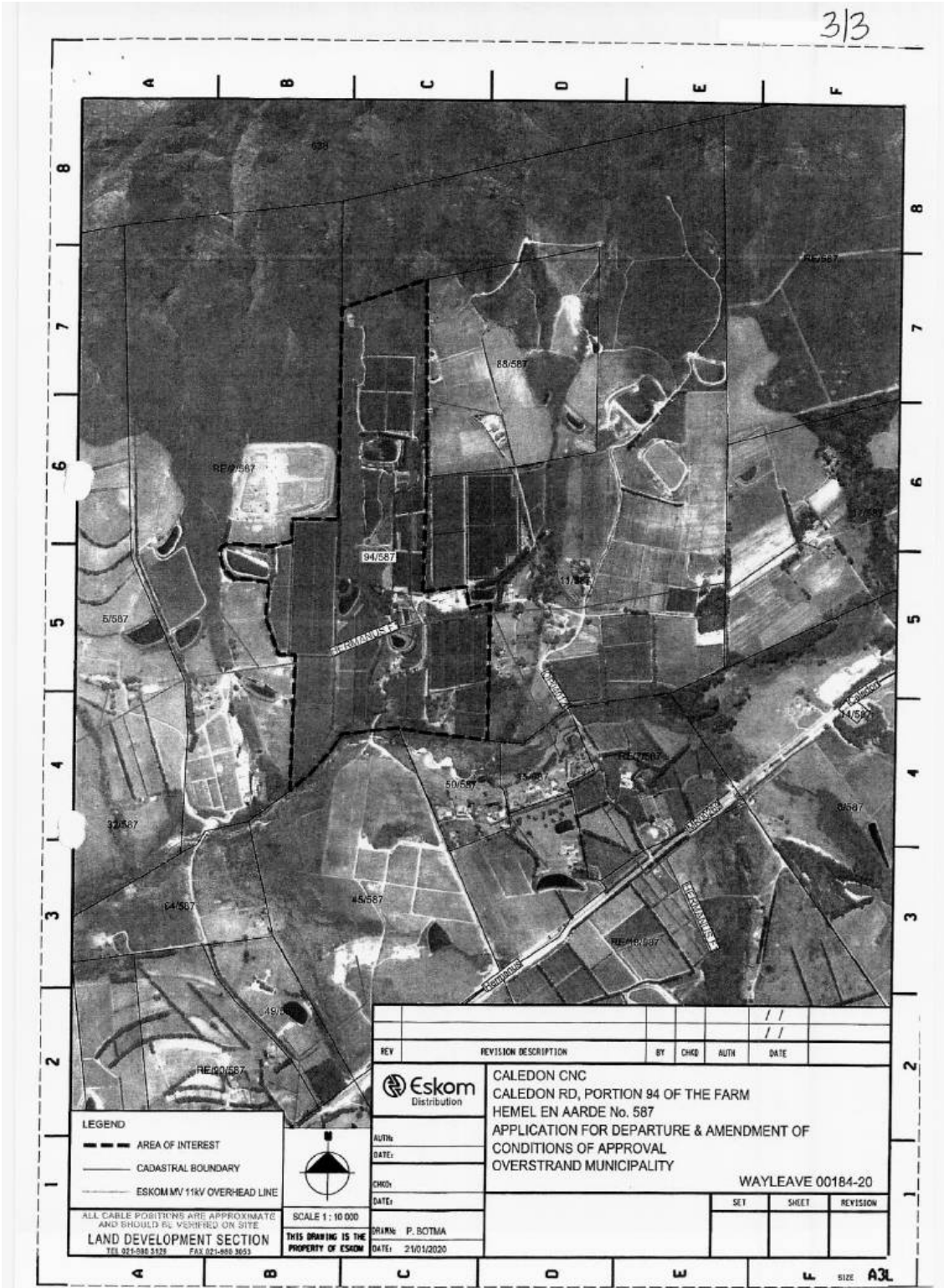
- f) That existing Eskom power lines and infrastructure are acknowledged as established infrastructure on the properties and any rerouting or relocation would be for the cost of the applicant/developer.
- g) That Eskom rights or servitudes, including agreements with any of the landowners, obtained for the operation and maintenance of these existing power lines and infrastructure be acknowledged and honoured throughout its lifecycle which include, but are not limited to:
 - i. Having 24 hour access to its infrastructure according to the rights mentioned in (a) above,
 - ii. To perform maintenance (structural as well as servitude – vegetation management) on its infrastructure according to its maintenance programmes and schedules,
 - iii. To upgrade or refurbish its existing power lines and infrastructure as determined by Eskom,
 - iv. To perform any other activity not listed above to ensure the safe operation and maintenance of the Eskom power lines or infrastructure.
- h) Eskom must have at least a 10m obstruction free zone around all pylons (not just a 10m radius from the centre).
- i) Eskom shall not be liable for the death or injury of any person, or for loss of or damage to any property, whether as a result of the encroachment or use of the area where Eskom has its services, by the applicant, his/her agent, contractors, employees, successors in title and assignee.
- j) The applicant indemnifies Eskom against loss, claims or damages, including claims pertaining to interference with Eskom services, apparatus or otherwise.
- k) Eskom shall at all times have unobstructed access to and egress from its services.
- l) Any development which necessitates the relocation of Eskom's services will be to the account of the developer.
- m) **DIRK SWART, CALEDON CNC** must be contacted on **+27 28 214 5710** before working in close proximity to the overhead power lines.

Kindly contact **Shaun Swanepoel** at Tel: 021 980 3913, should you require any further information.

Yours sincerely

Shaun Swanepoel
LAND DEVELOPMENT (BRACKENFELL)
(Transmitted electronically and thus not signed)

3/3



LEGEND
 - - - AREA OF INTEREST
 — CADASTRAL BOUNDARY
 — ESKOM MV 11KV OVERHEAD LINE

ALL CABLE POSITIONS ARE APPROXIMATE AND SHOULD BE VERIFIED ON SITE

LAND DEVELOPMENT SECTION
 TEL 021-980 3103 FAX 021-880 3653

SCALE 1 : 10 000
 THIS DRAWING IS THE PROPERTY OF ESKOM

Eskom
 Distribution

AUTH: _____
 DATE: _____

CHKD: _____
 DATE: _____

DRAWN: P. BOTMA
 DATE: 2/10/2020

| REV | REVISION DESCRIPTION | BY | CHKD | AUTH | DATE |
|-----|----------------------|----|------|------|------|
| | | | | | |
| | | | | | |

CALEDON CNC
 CALEDON RD, PORTION 94 OF THE FARM
 HEMEL EN AARDE No. 587
 APPLICATION FOR DEPARTURE & AMENDMENT OF
 CONDITIONS OF APPROVAL
 OVERSTRAND MUNICIPALITY

WAYLEAVE 00184-20

| SET | SHEET | REVISION |
|-----|-------|----------|
| | | |

SIZE A3L

Annexure J



Loretta Gillion - Portion 94 of farm Hemel and Aarde no 587

From: Stephanie Barnardt <Stephanie.Barnardt@westerncape.gov.za>
To: "loretta@overstrand.gov.za" <loretta@overstrand.gov.za>
Date: 07/02/2020 04:02 PM
Subject: Portion 94 of farm Hemel and Aarde no 587

TP - R. Inoort
(H. O. O. J.)

Good day

Thank you for notifying HWC about the amendment, kindly note that not heritage will be impacted.

Kind regards,

Stephanie-Anne Barnardt
Heritage Officer (Archaeology)
Heritage Western Cape
3rd Floor, Protea Assurance Building
Green Market Square
Cape Town
8001
telephone) 021 483 9370/9598/9692
email) stephanie.barnardt@westerncape.gov.za
website) www.hwc.org.za



Lifa leMvelli - *Heritage Officer*
Erfenis - *Heritage*
Heritage Western Cape

"All views or opinions expressed in this electronic message and its attachments are the view of the sender and do not necessarily reflect the views and opinions of the Western Cape Government (the WCG). No employee of the WCG is entitled to conclude a binding contract on behalf of the WCG unless he/she is an accounting officer of the WCG, or his or her authorised representative.
The information contained in this message and its attachments may be confidential or privileged and is for the use of the named recipient only, except where the sender specifically states otherwise.
If you are not the intended recipient you may not copy or deliver this message to anyone."

| |
|-----------------------|
| FILE NO: PAN 94/587 ✓ |
| Hemel & Aarde |
| SCAN NO: |
| Farm 587 |
| COLLABORATOR NO: |
| 1382111 |

10 FEB 2020



TP. D. (hoof) (H. Olivier)

Annexure K 1/4

| |
|--------------------------|
| FILE NO: PIN 94 687 |
| Hemel & Aarde |
| SCAN NO: 05 |
| COLLABORATOR NO: 1375427 |

Division of Telkom SA SOC Ltd

10 Jan Smuts Drive
Pinelands
7404

Stefan Geldenhuys
Tel: 021 414 5546
Email: StefanG@openserve.co.za

Our Ref.: WWIP_WHMN0141_20
Your Ref 3297/2019

21 January 2020

Attention: S Muller

Overstrand Municipality
Hermanus

PLANT AFFECTED – COPPER

Wayleave application : Application for departure and amendment of conditions of approval, Haygrove Heaven, Portion 94 of farm Hemel en Aarde no 587

With reference to your application received **20 January 2020**

As important cables and other infrastructure are affected, please contact our representative Frederik Swart at 028 514 1199/ 081 363 7815 / Frederiks@openserve.co.za 48 hours prior to commencement of construction work.

I hereby inform you that OpenServe approves the proposed work indicated on your drawing in principle. This approval is valid for **12 MONTHS ONLY**, after which reapplication must be made if the work has not been completed.

Any changes or deviations from the original planning during or prior to construction must immediately be communicated to this office.

Approval is granted, subject to the following conditions.

61 Oak Avenue, Highveld, Techno Park, Centurion 0157,
Private Bag X881, Pretoria, Gauteng, 0001

21 JAN 2020

2/4

As per sketch attached, OpenServe infrastructure **WILL BE AFFECTED**, consequently the conditions below and on the attached legend will apply.

Telecommunication services position is shown as accurately as possible but should be regarded as approximate only.

Should alterations or relocation of existing infrastructure be required, such work will be done at the request and cost of the applicant.

Please notify this office within 21 working days from this letter of acceptance and if any alternative proposal is available or if a recoverable work should commence.

It would be appreciated if this office can be notified within 30 days of completion of the construction work. Confirmation is required on completion of construction as per agreed requirements.

Should OpenServe infrastructure be damaged while work is undertaken, kindly contact our representative immediately.

All OpenServe rights remain reserved.

Yours faithfully



For Selwyn Bowers
Operations Manager
Wayleave Management: Western Region



This wayleave, Reference nr. WWIP_WHMN0141_20 is valid for 12 months from date here of and is subject to the following conditions:

1. No mechanical plant or vibrator type compactors may be used within three metres of any Open Serve plant (I.E. any Telecommunication equipment above or below ground level).
2. The position of our plant affected by the proposal is indicated as approximate approximate and **FREDERIK SWART** telephone number **081 363 7815** email adress **FREDERIKS@openserve.co.za** must be contacted at least 48 hours prior to commencement of the work, upon which the actual location of Open Serve Plant will be indicated on site.
3. A written request must be submitted to Open Serve for consideration should the applicant require our plant to be relocated. The cost of such relocation will be recoverable from the applicant.
4. It is the responsibility of the applicant to verify the existance of the indicated plant and to notify Open Serve immediately should the applicant locate any Open Serve plant which is not indicated on the plans.
5. Should the applicant expose any Open Serve plant, the safeguard thereof will be the applicant's full responsibility.
6. Failing to comply with the above conditions or any special conditions addendum hereto will be regarded as gross negligence and the applicant will be held responsible for the damage or loss as a result thereof.

Date: 21 January 2020

By: S. Geldenhuys

For Wayleave Management
Western Cape

| Legend | |
|--------------------------------------|--|
| 1. Underground Pipe | |
| 2. Underground Cable | |
| 3. Manhole | |
| 4. Street Distributio Cabinet (SDC) | |
| 5. Jointing Pit / AJB | |
| 6. Jointing Pillar (PJ) | |
| 7. Pipe Junction Box (B/S) | |
| 8. Robot Control | |
| 9. Pole | |
| 10. Stay | |
| 11. Strut | |
| 12. Aerial Cable (A/C) | |



BREED-GOURITZ
CATCHMENT MANAGEMENT AGENCY

Annexure L1/2

51 Baring Street Worcester 6850, Private Bag X3055 Worcester 6850

Enquiries: Rafeeq Le Roux Tel: 023 346 8000 Fax: 023 347 2012 E-mail: rleroux@bgcma.co.za

Reference No: 4/10/1/G/HEMEL & AARDE 587/94, HERMANUS
Date: 31st October 2020

The Municipal Manager
Overstrand Municipality
P.O. Box 20
Hermanus
7200
loretta@overstrand.gov.za

Attention: H Olivier

COMMENT ON THE APPLICATION FOR PROPOSED DEPARTURE AND CONSENT USE ON PORTION 94 OF THE FARM HEMEL AND AARDE NO 587, HERMANUS: HIGHWAVE CONSULTANTS ON BEHALF OF HAYGROVE HEAVEN (PTY) LTD.

With reference to the above application received on 24/08/2020.

This office in principle has no objection to the application subject to the adherence of the following conditions:

1. All relevant sections and regulations of the National Water Act, 1998 (Act 36 of 1998) regarding water use must be adhered to.
2. No use of surface water and/or storage of water is permitted, unless the applicant has formally obtained a license in terms of Section 41 of the National Water Act (Act 36 of 1998) and/or formal authorisation in terms of General Authorisations issued under Section 39 (Government Notice 538 of 2016), and/or if it is authorised under Schedule 1 of the National Water Act, 1998 (Act 36 of 1998) and/or if it is an Existing Lawful Water Use in terms of the National Water Act, 1998 (Act 36 of 1998).
3. The registration of all water uses as defined in Section 21 of the National Water Act 36 of 1998 that need to be registered. The relevant registration forms may be accessed on the www.breedegouritzcma.co.za website or alternatively this office may be approached for assistance.
4. Where the applicant has an existing lawful registered water use, used for agricultural purposes thus far, application should be made to the Water Users Association to amend such use proportionally per annual volume for domestic, commercial, industrial and/or agricultural, if this is applicable.
5. No pollution of surface water or ground water resources may occur due to any activity.

6. No stormwater runoff from any premises containing waste, or water containing waste emanating from industrial activities and premises may be discharged into a water resource. Polluted storm water must be contained.
7. All relevant sections and regulations of the National Environmental Management: Waste Act 2008 (Act 59 of 2008) regarding the disposal of solid waste must be adhered to. Solid waste may only be disposed of onto an authorized solid waste facility in terms of abovementioned legislation.
8. No permanent structures maybe constructed within the 100 year flood line or within 100 meters of any watercourse (seasonal or permanent river, stream etc.), whichever is furthest without firstly obtaining authorization in terms of Section 21 (c) and (i) of the National Water Act, 1998 (Act 36 of 1998).
9. The water provided for domestic use must comply with the SANS 241: 2015 guidelines for drinking water (edition 1). Regular monitoring must be done to ensure compliance. If the quality of the water is of such a nature that it is a threat to human health, then this office and the Provincial Department of Health must be informed of the procedures to rectify the problem.

Please be advised that all relevant sections and regulations of the National Water Act, 1998 (Act 36 of 1998) regarding water use must be adhered to. The use of water without the required authorization in terms of the National Water Act, 1998 (Act 36 of 1998) may be regarded as unlawful and a criminal offence.

The onus remains on the registered property owner to confirm adherence to any relevant legislation with regards to the activities which might trigger and/or need authorization for

Please do not hesitate to contact this office if you have any further queries.

Please ensure to quote the above reference in doing so.

Yours Faithfully



MR. JAN VAN STADEN

CHIEF EXECUTIVE OFFICER (ACTING)

Annexure M 1/2

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR CONSENT USE: PTN 94 OF FARM 587, HEMEL &
AARDE (3297)**

| | | |
|-------------------|---|-----------------------|
| Electricity | : | Eskom area |
| Stormwater | : | No services available |
| Water | : | No services available |
| Sewer | : | No services available |
| Roads and traffic | : | No services available |

Conditions:

1. that the developer arrange with ESCOM for the provision of electricity and that he complies with all conditions as may be set by ESCOM;
2. that no water from Overstrand Municipality is available and the developer will be responsible to obtain the necessary approval, licence and permits from the applicable authorities (Water and Sanitation, Health, Bocma etc.) for the use of any other water resources and the extraction thereof;
3. that the developer is responsible to provide potable water to the development that complies with SANS0241 standards and that relevant proof be submitted to the Senior Manager: Engineering Services, Overstrand Municipality;
4. that waste water disposal be done in a safe and healthy manner and that plans thereof be submitted to the Municipality and DWA for approval;
5. that the developer complies to all the conditions set by Department Of Water Affairs & Bocma;
6. that, the proposed development on Portion 94 of Farm 587 be provided with adequate sewer conservancy tanks, which must comply with the standards of the Department: Operational Services (Hermanus), and to which the sewer services on the development must connect to;
7. that, as no municipal sewerage removal services are rendered in the area, the owner is responsible for removal of all sewerage generated on the property, and disposal thereof at a licenced municipal sewerage treatment facility;
8. that alternatively, sewer treatment facilities that are approved by the Department of Water Affairs may be provided for disposal of sewer

from the developments. Written proof of such approval is to be submitted to the Municipality;

9. that the developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to minimum requirements of SANS 140400 – P: 2010: Drainage;
10. that access can be obtain from the entrance to the property located on the eastern side of the property, situated on the Hemel en Aarde Road The Provincial Engineer must however provide comment in this regard.


DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES


DATE

Annexure N 1/2

POWER OF ATTORNEY

I, the undersigned

SEAN TAGER
ID NUMBER: 7403215117085

In my capacity as Director of **HAYGROVE HEAVEN (PTY) LTD (REG NR. 1997/001058/07)**, the owner of **PORTION 11 AND 94 OF FARM 587, CALEDON**, hereby nominate, constitute and appoint Wright Approach Investments 136 CC (Reg number CC 2002/060745/23) trading as Wright Approach Consultancy, with power of substitution, to be the duly authorised attorney and agent in name, place and stead, which may be necessary in order to sign documents and to perform all such acts which may be necessary in connection with:

AMENDMENT OF CONDITIONS OF APPROVAL, DEPARTURE FROM BUILDING LINES AND DEPARTURE FROM 5 000M² MAXIMUM FLOOR SPACE

and generally for effecting the purposes aforesaid, to do or cause to be done whatever shall be requisite, as fully and effectual, for all intents and purposes as I might or could do if personally present and acting herein – hereby ratifying, allowing, confirming, promising and agreeing to ratify, allow and confirm all and whatsoever my said Agent shall lawfully do, or cause to be done, by virtue of these presents.

SIGNED AT HERMANUS ON THIS 17TH DAY OF MARCH 2021

S TAGER

WITNESS

COMPANY RESOLUTION


The Directors of HAYGROVE HEAVEN (PTY) LTD (REG. NO. 1997/001058/07), the owner of PORTION 11 & 94 OF FARM 587, CALEDON authorizes

SEAN TAGER
ID NO: 7403215117085


In his capacity as Director to act on behalf of the company regarding the applications for the following:

AMENDMENT OF CONDITIONS OF APPROVAL, DEPARTURE FROM BUILDING LINES AND DEPARTURE FROM 5 000M² MAXIMUM FLOOR SPACE

SIGNED ATHERMANUS ON THIS 17TH DAY OF MARCH 2021


A J DAVISON


S TAGER

 MICHELLE WOODMAN
WITNESS


WITNESS

Annexure O



| | |
|-----------------|----------------------------|
| File reference: | 587/94 RCAL (3297/2019) |
| Date: | 6 March 2020 MS |

INTERNAL MEMORANDUM

| | |
|--------------|----------------------------|
| From | : Town Planning Department |
| Town Planner | : H Olivier |

TO:

| | | | |
|------------------------------|----------------------------|------------------------------------|---------------------------------|
| <u>Area Manager</u> | <u>Building Department</u> | <u>District Health</u> | <u>Electrical Department</u> |
| <u>Environmental Officer</u> | <u>Fire Department</u> | <u>Infrastructure and Planning</u> | <u>Local Heritage Committee</u> |
| <u>Operational Services</u> | Traffic Department | <u>Ward Councillor</u> | Waste Management |

| | |
|-------------------------|---|
| Applicant | WRAP CONSULTANCY ON BEHALF OF HAYGROVE HEAVEN PTY (LTD) |
| Property Details | PORTION 94 OF FARM HEMEL & AARDE NO. 587 |
| Application Description | APPLICATION FOR DEPARTURE AND AMENDMENT OF CONDITIONS OF APPROVAL |

ATTACHMENTS :

| | | |
|----|-----------------------|---|
| 1. | Notice | Should the information be insufficient for you to make an informative comment, please list any additional documentation that you would require to make informed comments. |
| 2. | Locality Plan | |
| 3. | Motivation | |
| 4. | Site Development Plan | |

YOUR DEPARTMENT'S COMMENTS:

The fire department have no objection provide that the owner may not permit accumulation of combustible material in a manner which will cause a fire hazard, that fire breaks and safety distances are in place around the perimeter

| | |
|---|-------------------|
| <p>ASSISTANT CHIEF Enrico Solemans PO Box 20 HERMANUS 7709</p> <p>Tel: 028 313 8978 Fax: 028 313 1493</p> | |
| Signature: | Date: 11 MAR 2020 |
| <p>Email: esoleman@overstrand.gov.za</p> | |

Please provide your comments (with specific reference to any conditions of approval that should be imposed) in the space provided above or in a separate Memo by not later than the date stipulated below. If you require an extension of time for submission of comments, kindly request this in writing. Should no comments be received, it will be assumed that you have no objection to the proposal and where appropriate, the Mayoral Committee will be informed accordingly.

• Building Control Department to confirm that all structures on the property are in accordance with the approved building plans.

COMMENTS REQUIRED BY: 9 APRIL 2020

Annexure P
1/2**H Olivier**

From: A Aplon
Sent: 09 May 2021 09:47 AM
To: H Olivier
Cc: E Solomons; Lester Smith; Y Scholtz
Subject: Re: Enquiry: FMU
Attachments: goFPA-Rules-May16-AGM-approved.pdf

Goeie dag

Ek antwoord u graag soos volg:

Daar is tans geen wet wat 'n Brandweer Diens die mag gee om grond eienaars te vereis om 'n "Fire Management Plan" op te stel vir hul eiendom nie. Maar persoonlik glo ek dat dis net redelik as 'n grond eienaar 'n plan het, hoe hy die brandbare material op sy eiendom gaan bestuur. Daar is ook verskeie voorbeelde van grond eienaar wat planne het maar hulle implementeer dit nie. Alles hang maar af van die gesindheid van die grondeienaar teenoor sy risiko.

Daar word wel tydens die ontwikkeling aansoek proses versoek van die ontwikkelaar / grond eienaar om 'n "fire management plan" te het, dit kan deel vorm van die "Environmental Management Plans". Die veld / fynbos wat kan brand is deel die omgewing en daarom is dit meer 'n omgewing bestuur aangeleentheid.

Die "Fire Protection Association" (FPA) word gestig interme van die "National Veld and Forest Fire Act, Act No 101 of 1998" slegs munisipaliteite en staats instansies word verplig om aan dit te behoort. Grond eienaars word nie verplig om aan die FPA te behoort nie. In ons area is die FPA se naam Greater Overberg Fire Protection Association (goFPA). Die FPA stel reëls op vir hul lede maar dis slegs vir hulle lede. Hulle het ook geen magte om reëls te skep wat teenstrydig is met enige ander reëls of wette is nie. Aangeheg is die jongste reëls van goFPA.

Dit is wel verpligtend vir alle grond eienaars waar daar 'n risiko is van veld brande om aan die "National Veld Fire Act" te voldoen.

Indien u nog enige vrae het, kontak my gerus.

Sterkte

Angelo Aplon
Assistant Chief Fire Officer Operations & Training
Overstrand Municipality
M: +27 (0) 79 5077 297 T: +27 (0) 28 313 8980
F: +27 (0) 28 313 1493 E: aaplon@overstrand.gov.za



Overstrand Municipality
 A: 1 Magnolia Street, Hermanus, 7200 | P: P.O Box 20, Hermanus, 7200
 T: +27 (0) 28 313 8000 | F: +27 (0) 28 312 1894
 E: enquiries@overstrand.gov.za | W: www.overstrand.gov.za

Vision Statement: "To be a centre of excellence for the community"

2/2



| | |
|------------------------|----------------------------|
| File reference: | 587/94 RCAL (3297/2019) |
| Date: | 6 March 2020 MS |

INTERNAL MEMORANDUM

| | |
|---------------------|----------------------------|
| From | : Town Planning Department |
| Town Planner | : H Olivier |

TO:

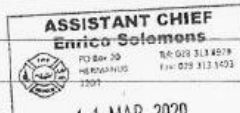
| | | | |
|------------------------------|----------------------------|------------------------------------|---------------------------------|
| <u>Area Manager</u> | <u>Building Department</u> | <u>District Health</u> | <u>Electrical Department</u> |
| <u>Environmental Officer</u> | <u>Fire Department</u> | <u>Infrastructure and Planning</u> | <u>Local Heritage Committee</u> |
| <u>Operational Services</u> | Traffic Department | <u>Ward Councillor</u> | Waste Management |

| | |
|--------------------------------|---|
| Applicant | WRAP CONSULTANCY ON BEHALF OF HAYGROVE HEAVEN PTY (LTD) |
| Property Details | PORTION 94 OF FARM HEMEL & AARDE NO. 587 |
| Application Description | APPLICATION FOR DEPARTURE AND AMENDMENT OF CONDITIONS OF APPROVAL |

ATTACHMENTS :

| | | |
|----|-----------------------|---|
| 1. | Notice | Should the information be insufficient for you to make an informative comment, please list any additional documentation that you would require to make informed comments. |
| 2. | Locality Plan | |
| 3. | Motivation | |
| 4. | Site Development Plan | |

YOUR DEPARTMENT'S COMMENTS:

| | |
|--|--------------|
| The fire department have no objection provide that the owner may not permit accumulation of combustible material in a manner which will cause a fire hazard, that fire breaks and safety distances are in place around the perimeter | |
|  ASSISTANT CHIEF Enrico Selemens P.O. Box 20 06-028 313 4878 487001105 Fax: 028 313 1403 2201 Date: 11 MAR 2020 | |
| Signature: | Date: |

Please provide your comments (with specific reference to any conditions of approval that should be imposed) in the space provided above or in a separate memo by not later than the date stipulated below. If you require an extension of time for submission of comments, kindly request this in writing. Should no comments be received, it will be assumed that you have no objection to the proposal and where appropriate, the Mayoral Committee will be informed accordingly.

- Building Control Department to confirm that all structures on the properties are in accordance with the approved building plans.

COMMENTS REQUIRED BY: 9 APRIL 2020

H Olivier

Annexure Q

From: R Andrew
Sent: 30 March 2021 08:44 AM
To: H Olivier
Cc: Loretta Gillion; D Hendriks; M Mantyi
Subject: RE: Ptn's 11 and 94 of farm 587 Haygrove Heaven

Good Day,

A Traffic Impact Assessments (TIA) must be undertaken when:

- a) An application is submitted for a change in land use and;
- b) The highest total additional **hourly** vehicular trip generation as a result of the application exceeds 50 trips per hour.

We've assessed the application and determined that the above-mentioned criteria is not applicable .

Ricardo Andrew
 Manager: Engineering Services
 Tel: (028) 313 5073
 Fax: (028) 313 0760
 E: randrew@overstrand.gov.za

From: H Olivier <holivier@overstrand.gov.za>
Sent: Monday, 29 March 2021 16:18
To: R Andrew <randrew@overstrand.gov.za>
Cc: Loretta Gillion <lpge@overstrand.gov.za>
Subject: Ptn's 11 and 94 of farm 587 Haygrove Heaven

Ricardo

Applications were received on the above-mentioned properties for the construction of horticulture tunnels over existing and new berry fields. Your Department also already provided your support for the application. (Please see your own records)

Some objections were received in relation to traffic impact and statements were also made that a TIA should have been done for this application. Note the application was not sent to Department of Transport due to the fact that the properties does not border directly onto the Hemel en Aarde road.

Please indicate if and when a TIA is required necessary for a development. Note that this application is to construct tunnels over berry fields, on land that is already zoned Agriculture Zone 1.

Your urgent response will be appreciated.

Regards

Henk Olivier
 Town Planner : Town & Spatial Planning
 Overstrand Municipality
 A: 16 Paterson Street, Hermanus, 7200 P: P O Box 20
 T: 028 313 8900 | F: 028 313 2093 | E: holivier@overstrand.gov.za

Annexure R



Western Cape
Government

TRANSPORT & PUBLIC WORKS: ROADS
Chief Directorate: Road Planning
Email: grace.swanepoel@westerncape.gov.za
Tel: +27 21 483 4669
Room 335, 9 Dorp Street, Cape Town, 8001
PO Box 2603, Cape Town, 8000

REFERENCE: TPW (Job 28999)
ENQUIRIES: Ms GD Swanepoel
DATE: 6 October 2021

The Municipal Manager
Overstrand Municipality
PO Box 20
HERMANUS
7200

Attention: Mr H Olivier

Dear Sir

PORTION 94 OF FARM 587, CALEDON DISTRICT: MINOR ROAD 4012: PROPOSED DEPARTURE

1. Your e-mail dated 5 October 2021 refers.
2. The subject property is located 7km north from Hermanus and takes access off Minor Road 4012.
3. This application is for various Departures to accommodate intensive horticulture tunnels.
4. This Branch offers no objection to the application in terms of the Land Use Planning Act 3 of 2014.

Yours Sincerely

SW CARSTENS
For DEPUTY DIRECTOR-GENERAL: ROADS